

**THREATS TO CIVIL SOCIETY AND HUMAN  
RIGHTS DEFENDERS WORLDWIDE**

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**HEARING**

BEFORE THE

**TOM LANTOS HUMAN RIGHTS COMMISSION**

**HOUSE OF REPRESENTATIVES**

ONE HUNDRED AND TWELTH CONGRESS

SECOND SESSION

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MAY 17, 2012

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**THURSDAY, MAY 17, 2012**

HOUSE OF REPRESENTATIVES,  
TOM LANTOS HUMAN RIGHTS COMMISSION,  
*Washington, D.C.*

The Commission met, pursuant to call, at 3:06 p.m., in Room 2237, Rayburn House Office Building, Hon. James P. McGovern [cochairman of the Commission] presiding.

Mr. McGOVERN: Good afternoon, everybody. I am Jim McGovern, and I want to welcome you to this hearing today.

I apologize for being a little bit late. But we just finished votes, and I am a little bit out of breath and out of shape, too, I think.

But I want to welcome everybody. I want to thank you for attending this important hearing on the threats faced by civil society and human rights defenders.

I want to thank the many activists, nongovernmental organizations, congregations, and journalists who work through peaceful means to make their countries better. You are unsung heroes, and I deeply appreciate everything you do to promote and protect universally recognized human rights, to document and expose human rights violations, and to hold governments accountable. And I greatly admire your courage and your leadership.

In particular, I want to thank Rupal Metha and Kate Hixon, and the staff, Jordan Tama and the whole staff of the Tom Lantos Human Rights Commission for organizing this hearing. And I want to thank our witnesses for their leadership in working to support civil society and human rights.

Civil society is essential to democracy, and can help improve lives and empower citizens in countless ways. Civil society and human rights defenders play a key role in fostering democracy, mobilizing people around human rights issues, and ensuring that governments live up to their commitments. When governments crack down on the rights of citizens to engage in basic civic activities, it is not only human rights that are undermined, civil society restrictions also tend to limit political and economic progress more broadly.

Unfortunately, in many countries, civil society organizations face increasing

restrictions, while human rights defenders themselves are threatened, censored, detained, tortured, and even killed. As more governments draft restrictive laws, civil society organizations are finding it more difficult to carry out their important work.

Governments need to see civic activists as partners and not as opponents. Governments need to understand that collaboration with civil society is not a sign of weakness but that it is essential to a strong democracy.

When NGOs come under threat, government should provide protection where they can. Human rights defenders in particular face serious difficulties in many places. From China to Russia, from Bahrain to Mexico, from Egypt to Zimbabwe, and in dozens of other countries governments are preventing human rights defenders from carrying out their critical work as protectors of fundamental freedoms.

In addition to examining the issue from a global perspective during this hearing, we have chosen to look more in depth at a couple of countries where conditions are very challenging for civil society and human rights defenders.

In Ethiopia and Colombia, activists work under extreme pressure, often experiencing human rights abuses themselves. In 2009, Ethiopia passed the charities and societies proclamation law, which has changed the face of civil society in Ethiopia. It violates Ethiopia's constitution and international human rights obligations. It is so restrictive that not even well-respected NGOs have been able to successfully register, forcing organizations to cut programs, close offices, and lay off staff.

The International Center for Not-for-Profit Law notes that Colombia is one of the most dangerous places in the world to be a human rights defender, with dozens of defenders murdered each year. There were 239 reported attacks on human rights defenders in Colombia in 2011. In addition, human rights defenders in the country face criminal prosecutions, violations of the home, and interference with communications.

This hearing is an opportunity to examine the precarious situation facing civil society activists and human rights defenders in Ethiopia, Colombia, and other countries, and to consider ways to support these unsung heroes more strongly.

I would like to welcome our first panel of administration witnesses. I am grateful to these witnesses and their colleagues at the State Department and the U.S. Agency for International Development for their leadership and support of civil society and human rights defenders.

The Commission looks forward to hearing about the administration's recently launched Strategic Dialogue with Civil Society, which elevates the importance of the government's work with civil society and reinforces the U.S. commitment to protect and defend civil society worldwide.

We also look forward to hearing from the State Department and USAID about

their important efforts to support human rights defenders groups and civil society groups on the ground.

Our first witnesses will be -- in not necessarily the order they are going to speak but in the order they are listed here -- Donald Steinberg, Deputy Administrator of the U.S. Agency for International Development. We also have with us Michael Posner, Assistant Secretary for Democracy, Human Rights, and Labor at the State Department. And we have Tomicah Tillemann, Senior Advisor to the Secretary of State for Civil Society and Emerging Democracies.

Dr. Tillemann, it is wonderful to see you carrying out the terrific work of your grandfather, Tom Lantos, who this Commission is named after, a man who I admired greatly. I still admire his legacy and all that he has done in support of democracy and human rights.

And we are also thrilled to have your grandmother, Annette Lantos, here, who is also in her own right a great champion of human rights, who I remember for as far back as there was a human rights caucus before a commission, that she attended virtually every one of them and was very much a driving force behind making sure that human rights stayed front and center in this Congress.

So it is great to have the witnesses and this wonderful audience. We have a very full hearing today, with six witnesses providing testimony; and, given that, I ask each of you to keep your oral testimony to 5 minutes or so. Your written testimony will be submitted for the record. And Mr. Posner, we will begin with you.

**STATEMENTS OF DONALD STEINBERG, DEPUTY ADMINISTRATOR, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT; MICHAEL H. POSNER, ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE; AND TOMICAH TILLEMANN, SENIOR ADVISOR TO THE SECRETARY FOR CIVIL SOCIETY AND EMERGING DEMOCRACIES, U.S. DEPARTMENT OF STATE**

**STATEMENT OF MICHAEL H. POSNER**

Mr. POSNER: Thank you, Chairman McGovern, and also for your lifelong commitment to these issues.

This is an important hearing on an important set of issues that are coming more and more to the forefront. Thirty-five years ago, when the Bureau of Democracy, Human Rights, and Labor was created, there were very few human rights NGOs in civil society outside of the United States and Western Europe. I remember in the early 1980s going to Uganda, and I couldn't find a human rights group there. In fact, there were virtually none in sub-Saharan Africa. There has been a dramatic change over these last 35 years; and thousands of brave people in countries all over the world, including some that you mentioned, are today on the front lines risking their lives.

In this country, we talk about political activists, journalists, bloggers, human rights activists, public interest lawyers, netizens, and so on. These distinctions don't really mean much in most of the world, where the more meaningful divide is between citizens who dare to come together to engage in public dialogue and those who remain silent. And around the world, the ranks of those who are engaged is growing, and they are playing a critical role. The common thread is that they pursue their goals peacefully. They focus on education, opening minds, fostering understanding, building bridges. Secretary Clinton described them in a speech in Krakow in 2010 as a collection of activists, organizations, congregation writers, reporters that work peacefully to encourage governments to do better by their own people.

These are important groups, and it is important that we support them. But it is not surprising that many governments find their activities threatening. Some react by blaming outside forces for violating their sovereignty, stirring up dissent. To us, these groups gather information, amplify voices that have too long been silent. But, to some governments, they pose a threat to stability; and this hearing I think looks at that, the challenges we face.

This is a challenging time in countries of the Arab Awakening and around the world. From Astana to Colombo, from Addis Ababa to Russia, to Egypt, to China, governments have taken steps to quash freedom of expression, assembly, and association. Since last December, Egypt has undertaken legal action against several U.S., Egyptian, and other NGOs. And in countries as diverse as Russia, Pakistan, Bangladesh, Algeria, Malaysia, Kyrgyzstan, Venezuela, and Vietnam there are either new laws that have been introduced or additional restrictions are now being proposed.

This pushback from governments comes in several forms. Some are making it tougher to form NGOs. Others are trying to actively constrain foreign funding. Other governments are taking measures to restrict freedom of assembly or freedom of expression. All of these restrictions are neither new nor unexpected, but there are clearly a range of states that are employing these measures in greater numbers than we have seen before.

I think our message today is that we need to hold our nerve, and we need to sustain our engagement with these citizens who continue to advocate peacefully for change from within their own societies.

I just want to end with a couple of words of what we are trying to do in the Obama administration. We don't support political parties or candidates. What we do is to support the right of individuals to exercise their fundamental freedoms of expression, association, and assembly, and to bring peaceful change in their own political systems. We do this, and in the Bureau of Democracy, Human Rights, and Labor this is really a full-time mission. It involves our diplomatic work, it involves public diplomacy, and it involves the money that we spend for programming.

We start by listening. We listen to civil society groups. We engage with them. We just had a meeting in Tunis under UNESCO's program for World Press

Freedom Day where we brought journalists from a range of Middle East countries together to tell us what they are experiencing.

The engagement also involves our discussions with foreign governments, with China, with Vietnam, with Uzbekistan, with Russia. We constantly reaffirm the U.S. Government's support for a freely functioning civil society.

Third, we raise these issues in multilateral fora. We played a leading role at the U.N. in creating last year a Special Rapporteur on Freedom of Association, which is a new position that will look at these issues. We do it with public diplomacy like this hearing. And, again, I commend you for holding this hearing.

And, finally, we do it through our programs. We now have four or five initiatives, including the lifeline fund, which is called the Embattled NGO Assistance Fund. We have managed to recruit 14 other donor governments to help us build a pool of about \$5 million to help NGOs when they get in trouble. Another set of funds deal with NGOs working on LGBT issues. Yet another working on religious freedom issues.

We have been successful in some places, and I am glad to talk about these in the questions and answers. I would cite in particular Cambodia, where 2 years ago we helped local NGOs challenge a restrictive NGO law that we have managed to hold now at bay for 2 years.

But our successes and failures are neither permanent nor guaranteed. It is important for us to stay the course and remain vigilant and tenacious; and we benefit by your involvement, the involvement of Congress in reinforcing our best instincts.

So, again, I want to thank you for holding this hearing, and I am glad to answer your questions.

[The statement of Mr. Posner follows:]

Good afternoon, Mr. Chairman and distinguished Members of the Commission. I thank the Commission for drawing attention to the issues relating to the status of civil society and human rights defenders worldwide.

Thirty-five years ago, when the Bureau of Democracy, Human Rights and Labor was created, NGOs barely existed outside the United States and Western Europe. Working with an NGO, Human Rights First, I first went to Uganda in the early 1980's and found there were no human rights NGOs in Uganda or in most countries on the African continent. Today, we find NGOs of every stripe in Africa and in almost every country in the world. There are thousands of brave people operating in these countries, including in a number of highly repressive environments, finding ways to help their fellow citizens.

There has also been a change in the nature of these "civil society" groups themselves. In the United States, we tend to categorize such groups as political activists, journalists, bloggers, human rights advocates, public-interest lawyers, netizens, and so on. In much of the world, though, these categories aren't particularly meaningful. In countries where governments fundamentally fear their citizens, the more meaningful divide is between citizens who dare to come together to engage in public dialogues on issues of the day, and those who remain silent.

Around the world, however, the ranks of those who are engaged is growing. In democracies and authoritarian countries alike, the advent of new connective technologies has allowed people to find others who share their interests – whether their tastes in music or their views about politics. Citizens connected to the global Internet understand that they are not alone. They have transformed communications, commerce, entertainment, education and innovation, everywhere. In some places, they have also peacefully challenged the political order.

The common thread to civil society groups is the manner in which they pursue their goals. In an era of violence, terrorism, and even bullying, the civil society groups we discuss today tend to focus on education, opening minds, fostering understanding and building bridges, and now engage peacefully.

Secretary Clinton described civil society this way in her July 2010 speech to the Community of Democracies in Krakow, calling it that “collection of activists, organizations, congregations, writers, and reporters that work through peaceful means to encourage governments to do better, to do better by their own people.”

In practice, urging governments to do better by their own people means anything from monitoring environmental practices to promoting food safety, delivering humanitarian assistance or making micro-loans to empower the poor, calling for protection for the rights of women, LGBT people, religious minorities, or disabled persons, or demanding that local authorities be bound by the rule of law. In some cases, civil society has helped to organize and channel the people power that has transformed societies from the Philippines to South Africa, from Timor Leste to Tunisia.

The idea that citizens can and should press their governments to *do* better and to *be* better has caught on all over the world. It is not surprising that some governments find this threatening. Some react by blaming outside forces for violating their sovereignty and stirring up dissent. To us, these groups are only gathering and amplifying indigenous voices that have too long been silenced. But to their governments they pose a threat to stability and to their own power.

So let me be clear: This is a challenging time. In countries of the Arab Awakening and around the world the landscape is sobering. From Astana to Colombo to Addis Ababa – and from Russia to Egypt to China – governments have taken steps to quash freedoms of expression, association and assembly. Since last December, Egypt has undertaken legal action against several U.S., Egyptian, and other NGOs, and countries as diverse as Russia, Pakistan, Bangladesh, Algeria, Malaysia, Kyrgyzstan, Venezuela, and Vietnam have considered or enacted new or additional restrictions on the ability of civil society to act. Each of these countries has their own history, culture, politics and experience with civil society, which affects their actions. There is no doubt many of these governments see themselves as vulnerable to widespread unrest by populations dissatisfied with closed political systems, corruption or impunity, or the absence of the rule of law and genuine economic opportunity, even in some places where macro-economic growth has been impressive.

The pushback from governments comes in many forms. Some governments are making it tougher to form an NGO. For example, in January Algeria adopted a new Law on Associations that could permit the government to deny licenses for political reasons. Other governments are actively constraining the foreign funding of their civil society organizations. Bangladesh is considering a Foreign Donations (Voluntary Activities) Regulation Act that would require organizations to get approval to carry out projects with foreign funding. In neighboring Pakistan, a bill on the foreign funding of NGOs was presented to the Senate in February.

Other governments are taking measures to restrict freedom of assembly. In Malaysia, we are concerned about a law that includes a ban on streets protests. In Belarus, as recently as February, the government even imprisoned an activist for displaying teddy bears that were holding protest banners. In Russia, we have been troubled by reports of violence in recent days, by the arrests of thousands of demonstrators, and by images of police mistreatment of peaceful protesters.

We are also focused on restrictions on freedom of expression and the significant number of restrictions on journalists and bloggers who are in jail around the world. Many more are practicing self-censorship for fear of fines or other forms of official harassment, or for fear of violence.

These types of restrictions are neither new nor unexpected. Restrictions on reformers and organizations and restrictions on freedom of expression are a common phenomenon during periods of democratic change. In a number of places – Croatia and Serbia come to mind – post-authoritarian turmoil led to backsliding, and similar hostility to NGOs. But the slow, tough slog toward democracy went on and these groups and societies have emerged stronger.

Democratic activists around the world have always faced a slow, tough slog. But they have always been able to count on the moral support of the United States. We must hold our nerve and sustain our engagement with those citizens who continue to advocate for peaceful change from within.

President Obama began his career as a community organizer and Secretary Clinton as a lawyer for an NGO, the Children's Defense Fund. Yesterday the Secretary spoke eloquently about these issues at the second annual strategic dialogue with civil society at the State Department. She understands instinctively the need for engagement with civil society – and how governments who do engage become stronger. And she was clear that the United States will continue to reach beyond governments to engage directly with the citizens of other societies.

In Krakow, the Secretary said “democracies recognize that no one entity — no state, no political party, no leader — will ever have all the answers to the challenges we face.” Governments that believe otherwise underperform, in every decade, in every region of the world. Meanwhile, their citizens look around at other countries and aspire to a better life for themselves and their children. I agree with the Secretary when she says that a government's “refusal to allow people the chance to organize in support of a cause larger than themselves, but separate from the state, represents an assault on one of our fundamental democratic values.” And I agree with our President, who has said we will “call out those who suppress ideas and serve as a voice for those who are voiceless.”

So how do we do this? The United States does not support political parties or advocacy groups or candidates. We support the right of individuals to exercise their fundamental freedoms of expression, association and assembly, and to attempt to peacefully bring change to their political systems. We do so with the conviction that an active and engaged citizenry is a pillar of free societies, and that history teaches that free societies are generally more peaceful, stable and prosperous.

We do so also with the conviction that civil society groups make democracies more sustainable, durable and responsive to their citizens, by creating the habits of trust and cooperation between citizens and the political institutions that should serve them.

At the Bureau of Democracy, Human Rights and Labor, engagement with civil society is woven through every aspect of what we do, and is a central focus in how we support diplomatic engagement by senior officials from Washington and at U.S. Embassies around the world. We have made it our mission to use all available mechanisms - diplomatic, policy and programmatic - to protect civil society, amplify its voice, and strengthen its on-the-ground capacity.

That means everywhere we go, we listen to civil society groups, just as we listen to the concerns of governments. Earlier this month, for example, our diplomats held a civil society dialogue in Tunis with a group of journalists, bloggers and advocates of media freedom from across the Middle East and North Africa, who were gathered for a UNESCO program on World Press Freedom Day. We heard the message, loud and clear, that the struggle for genuinely free expression is by no means over – it continues in various forms everywhere in the region.

Engagement with civil society also means that during our bilateral dialogues, including with China, Vietnam, Bahrain, and Russia, we reaffirm the U.S. Government's support for a freely functioning civil society. It means that as we prepare the annual country reports on human rights practices, we consult closely with NGOs on the ground and in the US to gather and check our facts. And it means multilateral

engagement, including through the United Nations, where we spearheaded the effort to establish a Special Rapporteur on Freedom of Assembly and Association. This administration has improved relations with a wide range of other nations and we work closely with like-minded countries on human rights issues.

We also support civil society through our programs. We aim to strengthen the longer-term capacity of civil society groups who wish to serve their societies as watchdogs, human rights advocates or independent and citizen journalists.

We also employ rapid response mechanisms to get assistance to those who need it in real time. We led the effort to establish a global assistance fund for embattled NGOs called the Lifeline: Embattled CSOs Assistance Fund, which now includes almost \$5 million in contributions from 14 donor governments and one private foundation. We have developed other rapid response mechanisms that provide financial support to human rights defenders and CSOs working on LGBT and religious freedom issues. We also participate in a Community of Democracies' Working Group on Enabling and Protecting Civil Society, a government-NGO body that fosters collaboration among likeminded states and civil society organizations to counter regulatory threats to civil society worldwide.

While we have seen activists buffeted by headwinds in the current environment, we have also seen progress. In Cambodia, the international community mobilized to support committed activists on the ground that successfully thwarted legislation that, if implemented, would severely restrict that country's vital, independent civil society. In Burma, where I have visited twice in the last six months, I see a civil society movement coming out of the shadows, hungry for the chance to engage its government more openly and learn lessons from citizen groups around the world. In other countries, such as Indonesia and Chile, we have seen civil society and the government work towards building democratic institutions following the end of authoritarian regimes. Even in Yemen, which continues to be a challenging environment in almost every respect, we've seen the government withdraw draft legislation that would have unduly restricted NGOs.

Lastly, I am reminded that success and failures are neither permanent nor guaranteed; this work requires vigilance and tenacity. But I am greatly encouraged by the differences between today's environment and the one we faced 35 years ago, when DRL was created. Then, a Czech playwright wrote movingly about the power of the powerless, citing the example of a simple grocer who one day refuses to stop touting the party line and starts speaking his mind. Fifteen years later, that playwright became president of a free country that continues to embrace the concept of civil society. And that grocer, Czech or Tunisian, faces a different world in 2012. Our job is to protect that voice and ensure others can hear it.

Thank you again for the opportunity to appear before the Commission today. I look forward to answering any questions you may have.

Mr. McGOVERN: Thank you very much.

I just want the audience to know we have been joined by Congresswoman Bonamici from Oregon. We are happy to have her here.

Mr. Tillemann.

#### **STATEMENT OF TOMICAH TILLEMANN**

Mr. TILLEMANN: Thank you very much, Mr. Chairman, and I want to begin by thanking you and the Commission for the opportunity to testify today.

If you will forgive a moment of personal privilege, my late grandfather did not know that this body would be created before he passed away. But I am confident that few things would have pleased him more than seeing the Commission carry on his

commitment to the cause of human rights. And in the context of today's topic, I should note that he always had a deep appreciation for the indispensable role of civil society and defending human rights, and he would have applauded the focus of this hearing. So I want to thank you as a member of the family for the work that you are continuing to do.

We are coming together this afternoon at a moment of profound change. The world is witnessing a fundamental renegotiation of the power relationships that have historically defined the interactions between citizens and governments. Advances in technology and shifts in culture are providing individuals with access to new sources of information and new tools for activism; and, as a result, citizens' expectations for governments and governance are shifting.

Civil society has been at the forefront of this phenomenon. Social networking sites, micro blogs, and mobile phones are making it easier and cheaper than ever before for individuals to hold governments accountable and advance the common good. And, as this occurs, civil society groups are emerging as a powerful catalyst for global change.

Now, it should not come as a surprise that many governments confronting these dynamics are pushing back aggressively against civil society organizations and their demands for increased accountability. Over the last several years, as we have heard, more than 50 governments have either introduced or considered legislation that imposed constraints on the work of civil society organizations or limited their ability to receive funding. These and other regulatory threats constitute a clear and present danger to the work of civil society, and Assistant Secretary Posner discussed how we are acting through a variety of mechanisms to address these challenges.

At the same time, at the State Department we are working to reaffirm the centrality of civil society in our own diplomacy. Last February, Secretary Clinton launched a new Strategic Dialogue with Civil Society. This initiative, modeled on our dialogues with key bilateral partners, is designed to elevate our engagement with civil society alongside our work with governments.

Over the past year, senior department officials, including Assistant Secretary Posner, have come together with civil society representatives under the auspices of the dialogue to address issues including democracy and human rights, religion and foreign policy, governance and accountability, empowering women, and labor issues.

Civil society working groups on these issues have developed concrete policy recommendations; and yesterday, at the launch of the strategic dialogue's 2012 summit, Secretary Clinton announced action on the first eight of these recommendations before a worldwide audience of civil society representatives. More details on these recommendations are available on the State Department's Web site, but I will mention just a few highlights.

We will be providing more extensive, systematic training for State Department personnel on how to engage religious communities and protect religious freedom.

This training will be offered both at the Foreign Service Institute and online, and it will facilitate our diplomatic outreach to faith communities around the world.

We will be expanding our efforts to encourage countries undergoing political transitions to enshrine equal citizenship for all in their new constitutions. As part of this work, we will be launching new Arabic language information efforts to support full and equal rights for women.

We will be coming together with other partners to institutionalize a platform for dialogue with representatives from labor and business groups at G-20 summits. We will be developing new opportunities for South-South cooperation on labor issues; and, beginning with 10 posts around the world, we will be establishing mission-based civil society working groups within the dialogue to address issues of local and regional importance.

Our Strategic Dialogue with Civil Society already involves more than 50 bureaus and offices at the State Department and USAID. It is providing us with a platform for translating the insights of civil society into our foreign policy, and we are looking forward to expanding this important initiative.

We are also increasing our engagement with the Community of Democracies and other international bodies that provide frameworks for multilateral cooperation with civil society. Within the Community of Democracies, we and other like-minded governments are now working alongside civil society in task forces to strengthen new democracies in Moldova and Tunisia and tackle a range of other challenges. These efforts are providing a model for countries around the world at how government and civil society can come together to deliver results for the citizens we serve. We know this work will not be easy; and we recognize that, while there have been pockets of excellence in our government on these issues, in many respects this is uncharted terrain. By comparison, government-to-government diplomacy has been around for a very long time, and we are still developing tools to collaborate with civil society. But as we survey the vital contributions civil society has made to expanding human rights and opportunity in our own country, it is easy to see why this work is so important.

So let me conclude where I began. We are living through a moment of profound change. We realize that some governments are working to prevent this change. But at the State Department we are working to embrace it and the opportunity it presents for our countries and for civil society, and we look forward to working with you to support civil society as an integral element of democracy and an essential guardian of human rights.

Thank you.

[The statement of Mr. Tillemann follows:]

Mr. Chairman and Members of the Commission, I want to thank you for the opportunity to testify today. If you will forgive a moment of personal privilege, my late grandfather, Tom Lantos, did not know that this body would be created before he passed away. But I am confident that few things would have pleased him

more than seeing this Commission carry on his commitment to the cause of human rights. And in the context of today's topic, I should also note that my grandfather understood the indispensable role of civil society in defending human rights, and he would have applauded the focus of this hearing. So, I would like to thank you for the work you are performing.

We are coming together this afternoon at a moment of profound change. The world is witnessing a fundamental renegotiation of the power relationships that have historically defined interactions between citizens and governments. Advances in technology and shifts in culture are providing individuals with access to new sources of information and new tools for activism. As a result, citizens' expectations for governments and governance are shifting.

Civil society has been at the forefront of this phenomenon. And over the last year, the geopolitical earthquakes that have shaken North Africa, the Middle East and other regions have provided strong evidence of this ongoing change.

Social networking sites, micro blogs, and mobile phones are making it easier and cheaper than ever before for people to hold governments accountable and advance the common good. As this occurs, civil society groups are emerging as powerful catalysts for global change.

Now, it should not come as a surprise that many governments confronting these dynamics are pushing back aggressively against civil society organizations and their demands for increased government accountability. Over the last several years, more than 50 governments have either introduced or considered legislation that imposed constraints on the work of civil society organizations or limited their ability to receive funding. These regulations take many different forms, but a few examples illustrate the severity and absurdity of the rules confronting civic groups:

- In Eritrea, CSOs engaged in relief work are required to have access to one million U.S. dollars – more than 20,000 times the monthly per capita GDP.
- In Belarus, it is virtually impossible to register a new civil society organization, and operating an unregistered group is a criminal offense.
- And in Venezuela, recipients of funding from the United States have been labeled “enemies of the revolution” and warned that they face imprisonment or “popular justice” – a significant threat in Caracas, which has one of the highest murder rates in the world.

These and other regulatory threats constitute a clear and present danger to the work of civil society. And Assistant Secretary Posner will discuss how we are acting through a variety of mechanisms to address these challenges.

At the same time, we are working to reaffirm the centrality of civil society in our own diplomacy. Last February, Secretary Clinton launched a new Strategic Dialogue with Civil Society. This initiative, modeled on our dialogues with key bilateral partners, is designed to elevate our engagement with civil society alongside our work with governments.

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- We will be coming together with other partners to institutionalize a platform for dialogue with representatives from labor and business groups at G-20 Summits;
- We will be developing new opportunities for south-south cooperation on labor issues; and
- Beginning with posts in Astana, Brasilia, Dhaka, Erbil, Jakarta, Lusaka, New Delhi, Prague, Rabat and Yaoundé, we will be establishing mission-based civil society working groups within the Dialogue to address issues of local and regional importance.

Our Strategic Dialogue with Civil Society already involves more than 50 bureaus and offices at the State Department and USAID. It is providing us with a platform for translating the insights of civil society into our foreign policy. And we are looking forward to expanding this important initiative.

We are also increasing our engagement with the Community of Democracies and other international bodies that provide frameworks for multilateral cooperation with civil society. Within the Community of Democracies, we and other likeminded governments are now working alongside civil society in task forces to strengthen new democracies in Moldova and Tunisia and tackle a range of other challenges. These efforts are providing a model for countries around the world of how government and civil society can come together to deliver results for the citizens we serve.

We know this work will not be easy. And we recognize that, while there have been pockets of excellence on these issues, in many respects, this is uncharted terrain. By comparison, government-to-government diplomacy has been around for a very long time, we are still developing tools to collaborate with civil society. But as we survey the vital contributions civil society has made to expanding human rights and opportunity in our own country, it is easy to see why this work is so important.

So, let me conclude where I began: we are living through a moment of profound change in the role of civil society in nations around the world. We realize that some governments are working to prevent this change. But at the State Department, we are working to embrace it. And we look forward to working with you to support civil society as an integral element of democracy and an essential guardian of human rights.

Mr. McGOVERN: Thank you very much. I think your grandfather would be very proud that you are testifying before this commission today.

Mr. Steinberg.

## **STATEMENT OF DONALD STEINBERG**

Mr. STEINBERG: Thank you, Mr. Congressman, Madam Congresswoman.

I, too, welcome this hearing and salute you for shining a spotlight on this disturbing trend that you have described already of growing restrictions on the space for civil society institutions in a number of countries around the world, as well as physical threats against citizens who step forward to demand change.

In 1990, I was serving as the foreign policy adviser to House Majority Leader Richard Gephardt. And I had the honor to travel with Mr. Gephardt, as well as Tom and Annette Lantos, to Budapest, Prague, Warsaw, and Berlin, literally within days of the fall of the Berlin Wall. It was a unique pleasure and a privilege to see the changes through the eyes of Tom and Annette Lantos, who were true regional heroes.

In Prague, we sat down in a beer hall with Ivan Havel and other leaders of the Civic Forum. Tom Lantos's first question was, when did they plan to turn their movement into a political party and take over the government? Havel and his colleagues seemed baffled. Over the next hour, they explained to us that their goal wasn't to simply step into the shoes of the authoritarians, it was about diffusing power throughout society to lawyers, journalists, religious leaders, labor unions, business people, artists, ethnic groups, and, yes, playwrights. It was all about creating space for citizens to run their own lives.

I think about that trip frequently, and especially when I take a trip in my current role. I have had the opportunity over the last year to sit down with Afro-Colombians and indigenous people in Colombia, independent media and human rights lawyers in Georgia, displaced persons in South Sudan, disabled people and LGBT activists in Vietnam, and women and other activists, including youth, steps away from Tahrir Square in Egypt. It is interesting, because all their comments mirror that Prague beer hall. These heroes are demanding a role in shaping their lives, their nations, and their futures.

As you have pointed out, it is a disturbing paradox that at a time of exploding social media and open communications many governments are seeking to place draconian restrictions on civil society. My colleagues have already outlined some of the most disturbing situations, and they have addressed primarily the human rights and political aspects. So for my part I wanted to focus on the developmental aspects.

During three decades of work in this arena, I have learned a number of things.

First, I have learned that development simply works better and is more sustainable when it draws on the full richness of civil society, involving people as planners,

implementers, and beneficiaries. No government has a monopoly on good ideas, financial resources, ground truth, or moral authority. In too many of these countries, civil society are the eyes, the ears, and the conscience of their communities.

In addition, civil society plays a vital watchdog role against governmental abuse, corruption, inefficiency, and they hold governmental officials accountable.

Civil society also knows that development doesn't just mean 6 and 8 and 10 percent per capita growth rates. It means a sustainable improvement in socioeconomic conditions, growing educational opportunities, improved health, better jobs, and better housing.

If we think about the Arab Spring, the experience there was a 6 to 8 percent growth rate for much of Mubarak's reign. But the lack of inclusion and the inequality led to bad distribution of income and wealth, arrogance, corruption, white elephant infrastructure projects, and a lack of opportunities for youths.

At USAID, we are trying to address these concerns in four key ways.

First, we are working to create and enforce international norms, working with our own civil society organizations, including many of the activists who are here today, InterAction, associations of contractors, human rights groups, women's groups, and so on.

At the Busan Development Forum, for example, last year, the United States pressed hard and successfully for including strong language affirming the rights and importance of civil society. Specifically, the document stated civil society organizations play a vital role in enabling people to claim their own rights to shape development policies and to oversee their implementation.

Each signatory to that agreement agreed to enable civil society to exercise its roles as independent development actors. But it is, of course, telling that many of the governments that signed that Busan outcome document, and even those who led the drafting exercise, are the very countries that are imposing the strongest draconian measures now.

Thus, we are also taking the steps to demand that governments include civil society in formulating all their development strategies and goals, in implementing these programs, and in monitoring their progress. This is especially true in our programs for rural development and food security under the President's Feed the Future Initiative, our child survival efforts under the Global Health Initiative, our remediation and adaptation efforts under the Climate Change Initiative, and our humanitarian relief efforts.

For example, I am pleased to note that now every single project at USAID, to be considered, has to include a gender impact statement that states how that project will advance women's equality and gender rights.

Third, we are working directly to create civil society institutions. A growing percentage of our assistance is going directly to reputable, transparent NGOs in developing countries. We are also helping build these organizations.

In the Philippines, for example, we have set up an incubator for 120 NGOs in human rights, environmental issues, development, trying to create reliable financial, human resource, monitoring, and evaluation systems. The same is true of 315 civil society groups in Cambodia.

Similarly, I was pleased to be able to announce at Ahfad University, that fabulous women's university in Khartoum, last year a new program to empower civil society women to participate in peace processes around the world, providing them training, stipends, and fiscal protection. Because we all know that the most dangerous profession for a woman is a peace builder.

Finally, like my colleagues elsewhere in government, we advocate for these groups in meetings with host governments, by speaking out against abuses, by providing financial assistance, and, yes, when appropriate, by wrapping the American flag as a protective shield around advocates who want us to do this. We all know that the simple act of meeting with a senior American official, or a Member of Congress, for that matter, can provide life-saving protection.

Mr. Congressman, Madam Congresswoman -- it is hard -- no higher purpose exists for the use of American power than to provide a stern reminder for those who would seek to shut down civil society that they are indeed on the wrong side of history.

Thank you.

Mr. McGOVERN: Well, thank you very much.

I want to thank all of you for your testimony. I want to thank you for the work that you are doing. And, you know, I appreciate the importance that human rights has in the administration policies.

I have a few questions. And again, because I like everything you do, I want to begin with a kind of critical question on something that has kind of bothered me. And that was that I have to tell you I was disappointed to learn last Friday that the administration is moving forward with a substantial arms deal for Bahrain, despite many continuing human rights abuses in that country, including excessive use of force by security personnel and the continued detention of peaceful opposition leaders and human rights defenders. Over the past few months the human rights situation in Bahrain has appeared to get worse, and not better, and the Bahraini people are only growing more disheartened as they see the continued repression and little government commitment to meaningful reform.

And so, given this situation, I just don't think it is an appropriate time to provide Bahrain with arms. And I don't think we should provide Bahrain with any

arms until there is a substantial and lasting improvement by the Bahraini Government on human rights.

I am particularly concerned that when the United States provides arms to Bahrain, or to any other government that violates basic freedoms, this weakens human rights defenders on the ground by sending a signal that the U.S. supports the repressive government.

So I don't know whether or not before that decision was made that you consulted with human rights defenders in Bahrain or not. If you did, I would be curious to hear what they had to say.

I understand the strategic importance of that country, but I think that the arms transfers such as these can, again, can weaken the position of human rights defenders in an authoritarian government. And so I say that because if anyone has a comment, I am happy to listen. I think the optics are wrong, and I think the message that it sends not just in Bahrain but around the world, I think is wrong. But I thought I would express my frustration, and if you had any comment, you are more than welcome.

Mr. Posner?

Mr. POSNER: Sure. Thank you, Congressman McGovern.

I think it is important to emphasize both what we did and how we characterized it. We were very clear last week that the decision to restore some security cooperation was done on the basis of our national security interests. We said forcefully and repeatedly that we did so mindful of the fact that there are a number of serious, unresolved human rights issues in Bahrain.

We said it again, clearly and repeatedly, that we are very troubled by the growing polarization in Bahrain. There are both a daily occurrence now of violent protests where protesters are resorting to Molotov cocktails and other lethal force which we condemn. But we have also been very critical of the government, as you have just said, for their excessive use of force, including widespread use of tear gas. We made clear that we are not supporting any items to the Ministry of Interior that could be used for crowd control, tear gas and the like.

We also said, and we will continue to say, that we are pushing the government for greater accountability for the abuses that occurred last year, torture and the like, which has been well documented by the Bassiouni BICI Commission. We continue to address and raise concerns about hundreds of unaddressed cases where people are still being charged for peaceful protests, 20 doctors, the al-Khawaja case in particular. And we continue to call for integration of the police.

I was part of several meetings with the government, including with the crown prince. The message from Secretary Clinton, from Vice President Biden, and others was clearly a message of our continuing concern and great concern that these human rights issues are not being addressed in a way that is going to lead to the kind of

reconciliation and moving forward that we all hope for.

We will continue to press on these things. This is an important, critical part of our agenda.

Mr. McGOVERN: Well, again, for what it is worth, my experience has been that -- and, again, I appreciate the fact that you are sending some powerful verbal messages to the government that we are not happy with the progress that has been made up to this point. But my experience has been that, you know, back home, when we resume things like arms sales, that the optics are that things are okay with the United States.

And while we are on this kind of issue, I mean similar to my concerns about Bahrain, I am concerned that, again -- and I am not alone in this -- that we will be sending the wrong message to the Egyptian Government if we continue to provide Egypt with high levels of military aid at a time when they are making it extremely difficult for NGOs to operate and are placing criminal charges on NGO workers. You know, military aid aside, how is the United States continuing to support civil society in Egypt given the great restrictions that have been placed on civil society organizations in that country?

Mr. POSNER: Again, this is an area where we have spent and will continue to spend a great deal of time and attention. We are at a critical juncture now. We are a week away from the first of the presidential -- what will be the first round probably of presidential elections. There is an unresolved court case relating to the constituent assembly which will draft the constitution. There is also a challenge to the sitting of the parliament.

But we are clear going forward that the focus needs to be on Egyptian civil society. Indigenous organizations, of which there are many, that are pushing for reform, for democracy, for human rights, journalists and bloggers, these are people that are right now highly anxious; and I talk to them all the time about their own well-being, about their own future. The United States will stand behind these people going forward.

We are in a moment now where we wait to see what happens in the election. But the discussion now is, where do we go this summer in the weeks and months ahead? As a new government is formed, how do we make sure that the space for Egyptian civil society is great enough that these organizations can function freely without constraint? This will be a big challenge, but it is part of our agenda going forward.

Mr. McGOVERN: Mr. Steinberg, many countries are creating new legal barriers to civil society, such as restricting the freedom of assembly or association or instituting penalties for receiving foreign funds. Do you see a trend in the creation of such barriers? And, if so, what accounts for this trend and how can the United States support civil society in countries where governments greatly restrict NGOs or create barriers to NGOs receiving foreign funding?

Mr. STEINBERG: The short answer is, yes, we see an increasing level of restrictions. You have raised a couple of them, barriers to receiving assistance from outside organizations. We have seen arrests. We have seen very restrictive laws regarding who can freely associate.

It is, as I said in my testimony, a paradox. Because it is exactly at the time when we are seeing this explosion of civil society, people coming together with different identities to express their identities as union leaders, as academics, as journalists, as women, as indigenous peoples. I think that in many cases they are viewed, and properly so, as a threat to the status quo, to the privilege of government leaders, of an elite class, of an aristocratic or authoritarian leadership both in the economic and the political realm. And so governments around the world have a natural tendency for self-preservation and respond.

We, as a government, are strongly opposing those trends. As I said, we are trying to reaffirm international norms and standards through our work in the Open Government Partnership that the Secretary and the President have headlined, our work to support the Community of Democracies, to bring together governments that are doing better in this arena, to set standards to essentially have a race to the top for good behavior in these areas.

But, equally important, we are working to support those very organizations on the ground themselves. And, again, we have what I called in my testimony incubation centers, where organizations that are just getting off the ground are supported. And, again, it all depends upon the kinds of support that they indicate that they want. Assistant Secretary Posner was extremely accurate when he said we need to be guided by the people on the ground to tell us what kinds of assistance they need.

When I was the American ambassador in Angola 15 years ago, whenever a human rights advocate would speak out I would quietly call him or her and I would say, do you want to come to the embassy and have a picture with me? And in some cases they would say, absolutely, that would be the greatest thing in the world. It would help me, it would protect me. On a number of occasions, they said, what, are you crazy? You know, that is going to get me shot. And so we have to be guided by their judgment of what they need in these situations.

Mr. POSNER: Congressman McGovern, if I can just follow up on one last sentence that Don Steinberg just said.

I think we are all mindful of the fact that there are a number of these restrictions coming into play even in the last year. And, as he said, you know, governments see themselves as vulnerable because populations are dissatisfied with closed political systems, with corruption, with lack of economic opportunity and the like.

But it is also very important that we recognize that each society has its own history, culture, experience. And so while we can talk broadly about the problem, it is

also critically important, as he said and we believe, that we both listen to people on the ground and recognize that what we need to do in one place may be different, even at a different moment, from what we do in another.

We are dealing with a range of countries where there is change under way and where governments are highly insecure, and the people on the ground who are leading the change, the change agents, are in a very vulnerable position. We have to figure out what is best to protect them and support them.

Mr. McGOVERN: I just have a couple other questions, and I will yield to my colleagues.

Mr. Tillemann, how has the administration coordinated diplomatic pressure in response to legislative and regulatory threats to civil society? And have these efforts deterred governments from enacting constrained legislation and regulations?

Mr. TILLEMANN: It is an excellent question and an area where we have seen some very encouraging successes. We have been particularly engaged in a new working group that has been established under the auspices of the Community of Democracies with leadership from the Canadian Government that brings together leading civil society organizations, including the International Center for Not-for-Profit Law, and governments that share a commitment to defending civil society. Together, they have worked to identify draft legislation that poses a threat to civil society and then coordinate diplomatic action to either prevent passage of that legislation or ensure that it is amended to a point that it no longer poses a threat to civil society.

There have been a number of very encouraging successes that have resulted from this mechanism. It is still I think too soon to say whether it provides a conclusive solution to what is clearly a very broad and corrosive challenge, but it is one of the tools that we feel provides a possible mechanism for addressing this challenge.

Mr. McGOVERN: Okay. Mr. Steinberg?

Mr. STEINBERG: Just to follow up with one very practical example.

We were all deeply concerned in the case of Uganda had very tough restrictions on the LGBT community and LGBT activists. That came to a head when David Kato, the very courageous LGBT leader, was killed a year, year-and-a-half ago. The international community, I believe, led by the United States, put very strong pressure on the government of Uganda; and we made it clear through diplomatic initiatives directly with the president of Uganda, Mr. Museveni, that this would not stand.

And after a period of time, the terrible restrictions that were being considered in Congress were put aside. They did go after the killer of David Kato. They did find him and convict him. And it was unclear that they were even going to try that. And

perhaps most importantly, we have seen public statements now that have walked them back from that.

And I want to stress one point that we were talking about earlier, which is to listen to the activists on the ground. Because one of the things that we were tempted to do was to cut off assistance in this environment. And we were told by activists on the ground, including Frank Mugisha, who again is one of the courageous leaders in that environment, please don't do that. Don't make us the cause of development assistance not coming to Uganda. That will only infuriate people against us. Use an affirmative agenda for that purpose. We did, and thank goodness it worked.

Mr. McGOVERN: Just one final question.

Mr. Posner, in his testimony submitted for this hearing, Brian Dooley of Human Rights First, recommends a set of guidelines or standards for the United States to articulate publicly and follow consistently regarding its interaction with human rights defenders. I think such guidelines could be useful in helping human rights defenders in other countries understand what they can expect from U.S. embassies and officials in terms of engagement and support.

How do you see the utility of articulating a set of guidelines for interaction between the U.S. Government and human rights defenders? And what do you see as the lessons learned from the recent Chen Guangcheng episode in terms of how the U.S. interacts with human rights defenders?

Mr. POSNER: Let me take the Chen Guangcheng case first.

As you know, we are actively engaged in trying to help him fulfill his desire with his family to come to the United States. We have undertaken to fulfill our visa and immigration requirements, which are ready to go. Our understanding is that he is now in conversation with the Chinese Government. We are following this very closely. We are in constant touch with him, and we are going to do everything possible to bring him here.

In the broader discussion about NGOs in China, there are a group of lawyers and other activists who found space shrinking for their advocacy. I was in Beijing about 3 weeks ago as part of a legal experts dialogue, where we raised issues about the challenges faced by the legal community. We have agreed to have a human rights dialogue this summer. These are issues we raise on a regular basis, and I think people in the advocacy community appreciate the fact that we are as attentive to them. We are constantly meeting with them, and we are constantly raising these issues publicly.

More broadly, I think the idea of guidelines is something we are very open to. We have been in conversation with Human Rights First and other organizations.

Guidelines will take us only so far. I think there really is a constant need in a practical sense to engage with all of our embassies around the world to reinforce what the best embassies do. The best embassies have political officers that are in regular

contact with NGOs that make it clear that it is a priority. We amplify their voices. We provide a lifeline when they get in trouble. We provide technical support and financial support.

So I think we know how to do this. It is a question really of making sure that across the board the best practices are followed, and that is very much what we are trying to do.

Mr. McGOVERN: Thank you.

Ms. Bonamici?

Ms. BONAMICI: Thank you very much, Mr. McGovern; and thank you to all of you on the panel for the work that you do.

I wanted to ask if you could give a progress report on the Global Human Rights Defenders Fund and the Embattled NGOs Assistance Fund. And I am certainly not asking for you to reveal the identity of the recipients or beneficiaries. But in general, if you could tell us, Mr. Posner, about the type of individuals and groups that have received support and the countries in which the fund moneys have been distributed and what have they achieved so far. Thank you.

Mr. POSNER: Well, thank you for that question, and it is something that we are very proud to have initiated. This really came out of the lifeline -- the Embattled NGO Fund came out of the Krakow meeting which Tomicaah was so centrally involved and where Secretary Clinton spoke so eloquently about these issues.

We launched the fund in July of 2011. There are now 14 governments working with us. I think it is really important that we are not doing this alone. We have been meeting on an annual basis with those governments. We are trying to recruit more governments into the fold.

And we put in \$3 million, but there is a total of \$5 million. These are small grants. And we have begun to deliver that money to organizations now in 26 countries, places like Zimbabwe, Syria, Bahrain, Uzbekistan, Ecuador, Russia.

We have got a range of activities. Again, there is some constraint in going into the detail because a lot of these groups are eager to get our help but not eager to get a headline about it. But the idea is to provide emergency assistance, legal assistance, medical bills, et cetera, when they get in trouble to help them advocate against restrictive laws when they are introduced and imposed and to build stronger global networks so activists can learn from one another what they should be doing to protect themselves.

The Human Rights Defender Fund has been around since 2007. We have provided about \$2 million to over 800 human rights defenders. This is money that goes to individual activists who get in trouble. Again, it is labor activists, democracy activists, journalists, bloggers, and the like.

And we have been particularly active since the Arab Spring, or Awakening, in a number of those countries. We have given money, for example, to 16 Syrian civil rights activists.

But we are very engaged and very proud of these funds. It is money well spent. A little bit of money goes a long way. It both sends financial support but also shows the solidarity of the U.S. Government.

Ms. BONAMICI: Thank you very much.

Mr. McGOVERN: Mr. Ellison?

Mr. ELLISON: You know, when I was getting ready for this hearing I couldn't help but think about what John F. Kennedy said. He said, those who make peaceful revolution impossible make violent revolution inevitable. And you all, I thank you for the work you are doing for those peaceful revolutionaries who are trying to make their countries better, because they are the hope for their nations.

I want to say that, Mr. Steinberg, I appreciate your reflections about listening to the local voice. I think that well-intentioned support can sometimes lead to results that we don't want. And I don't offer my comments by way of criticism of our government, but I will say that I have been intrigued by the whole conflict in Egypt and have tried to ask a lot of questions. I haven't come to any firm answers yet. But I do know that we substantially increased our assistance, and according to some people in Egypt, we didn't consult much when we did it. And in some ways, you know, that sort of ended up leading to the conflict which resulted in several people being charged with the violations of the NGO law.

I was in Egypt back in November, and one particular Egyptian official was quite animated about this issue. But Egypt, in my view, was letting them exist there and not putting them out, but then not giving them a license to operate, but then gave them a license to operate for the election, but then after the election charged them all. So I mean there is a lot of game playing and confusion going on.

But I will say that I spoke with one American who stayed. Because after the travel ban was lifted, we all left, but one American did stay. And that American made it clear to me that he felt he did nothing wrong and that he wasn't there to criticize Egypt or America but that he said he didn't do anything wrong, and that the people that he was working with were doing nothing more than helping the Egyptians find their way to the ballot box and to be effective at the polls.

And he did indicate to me that he feels that as Americans we should -- at least he felt as a matter of personal conscience that he was going to stand and make his case. Because he thought that, if he didn't, Egyptians would be subject to perhaps even more unfair treatment after the light of international attention left because the Americans left.

And I don't really -- I just offer that because I think it somehow is relevant to this conversation. And he said further that he thinks that, hey, man, we don't have anything to apologize for, you know, so what are we running for? So that is kind of what he said. And I thought that was interesting. Again, I just offer that as a reflection.

What are we doing when we give foreign assistance, particularly in the area of democracy promotion, have we institutionalized a suggestion that you made, Mr. Steinberg, to try to really seek out the local input?

Mr. STEINBERG: Absolutely we have. At USAID, as well as with the State Department and other agencies, there is a firm commitment to try to work with and through local government, local civil society, local business as much as possible. We have established a goal at USAID of doing some 30 percent of our business directly with civil society or governments. In each of those cases, we are very careful to ensure that we are good stewards of the taxpayers' dollars. And so we do previous analysis of the financial systems. We insist on transparency. In a lot of cases, we insist that the project be completed and the results demonstrated before we put the money into effect.

But in our development approach we have learned a long time ago that country after country is not going to accept policies that are made in America any more than they are going to accept policies made in Brussels or London or Beijing.

One of the phenomena we have seen has been what I call the democratization of development, which is a positive thing, and there is almost a synergy that ties in here. Because if you think about our development partners now, 20 years ago, there were three of our development partners in Africa that were democracies. Today, there are 20, and we can work with those institutions. They have transparency. They empower their local populations. That is the kind of development partner we want to work with.

And if I can just say one thing on Egypt, and I don't want to go into too much detail. I think you described it very accurately. The United States Government thinks it is very important for there to be an active civil society in Egypt. The programs that you are talking about were part of \$165 million to support democratic institutions, civil society groups that are reaching out to all elements of that society. It also went to support businesses, small businesses that are going to be creating jobs in that environment. And I would suggest to you that your interlocutor, the American, was exactly right. We have done nothing wrong.

Mr. ELLISON: Yes, sir?

Mr. POSNER: If I can just follow up on that and take the Egypt example a bit broader. Some of the groups that we fund that are U.S.-based, like National Democratic Institute or the Republican institute, Freedom House, are not there to pick winners and losers. They are there to build democratic muscles, capacities to teach basic skills in societies where democratic institutions haven't functioned or haven't

functioned well.

So, again, we are very proud of supporting them. They do this work in 70 or 80 countries around the world. They do it well. They do it professionally. They have done it for a long time, and they will continue to do it.

But the focus I think has to be on what goes on locally. Because the name of the game is people are going to change their own societies. We can't change the societies for them. And there are local advocates now who are taking chances, but they know what their society believes and wants.

And we ought to be -- it is a question of money, but it is also a question of diplomatic and public support. We need to amplify their voices. We need to give them, as much as we can, the protection to be themselves, to be peaceful advocates.

And as you said at the outset, the alternative is extremism and violence. And what I say to governments when I talk to them is you have a choice. You can either allow a more open public debate with your own people, or you run the risk of extremism becoming the rule of the day.

Mr. ELLISON: I think that is an excellent observation.

Mr. Tillemann?

Mr. TILLEMANN: If I might, on the issue of engaging with local partners, one of the goals behind the launch of our Strategic Dialogue with Civil Society was to get beyond what I call the STP problem, which is engaging with the same 10 people over and over again.

Mr. ELLISON: Another good point.

Mr. TILLEMANN: And we need to reach out not only within capitals to those who speak the languages and live in close proximity to our embassies but also to those in more outlying areas of countries and ensure that their voices are heard in our policymaking decisions.

Mr. ELLISON: This is an excellent point as well.

And if I may also add, I think that Americans, we need to take some risks, too. Part of what you are saying, Mr. Tillemann, is get outside of our comfort zone. But I think we sometimes need to get out of our ideological comfort zone, too.

The thing is when civil society flowers, you are going to have people who you are totally thumbs up with them, you love what they are doing, and there are other people who are also engaged in civil society, but they are peaceful, they believe in elections, but we may not agree with some of the things they stand for.

I think America should run the risk of engaging civil society broadly. Because

at the end of the day, the marketplace of ideas in that country will win. But if we start saying -- I mean, our line should be --

When I was in Egypt, I actually gave a talk. And somebody said should we have an Islamic country? I said, I am not here to tell you what kind of country to have, by all means. But as long as you respect women and minorities, allow Egyptians to speak their mind, and I had one more -- I can't think -- I am having a moment here. But as long as you observe basic norms of international human rights, you can call it what you will, you know. England has the Church of England, right? So I am not here to tell you how to develop a religious reference for your country.

And, you know, interestingly, I spoke to a full roomful of people who were Salafi, people who were in the Brotherhood, the whole range of society. And I didn't get any significant pushback when I made that comment.

I don't know what the future holds for that country. That is unfolding now. But I do think -- I agree with your point that, you know, if you want to learn how to run a fair election, we should be there to do that mechanical thing.

I wonder if I might offer just one other question and get your views on this. Some of these countries, particularly in the Arab Spring, they don't have any civil society. Egypt had some. Libya maybe has none. Tunisia had some, but not much.

Mr. ELLISON: What do we do in societies where we really are starting from ground zero? There is a certain amount of fear, trepidation, and even just downright lack of information about how to engage in civil society. I mean, how do we help people understand -- should we help people to understand, but, also, how do we help them understand the essential value of active civil society to a democratic society?

Anybody care to offer views on that topic?

Mr. STEINBERG: I will just offer a quick view. When I was appointed as ambassador to Angola in 1995, it was in the middle of 30 years of civil war, and the key victim of civil war is civil society. Organizations of women, organizations of lawyers, organizations of journalists break down because they are forced to decide are you with the government? Are you with the rebel movement?

So, indeed, there was arguably no real civil society on the ground. And so one of the things we did was to bring in experts who had worked in similar situations in the past who brought together, very slowly, groups to come together over specific issues in their community.

So it didn't have to be women's organizations and women's rights. It could be, you know, we need a water hole in this community. And they would come together and there would be a natural leader who would step forward in that environment. It was not always the educated person. And very quickly that organization solidified.

Then we would bring in experts, and we tried to do it as much as possible from other African countries so it wasn't an American coming in. Because American civil society is very different. And they would sit down and say, okay, now, you need some funding. Here is how you put together a funding proposal. Okay. You need transparency, because USAID won't fund you unless you have this transparency. They would be trained in that. Here is how you put together a human resource department, et cetera, et cetera. And, frankly, it worked. And very soon those organizations started to flourish.

And that is what I am talking about when I describe the incubation effort we are doing in the Philippines right now. A lot of that work is in Mindanao where in fact they are emerging from a conflict situation where civil society seeks to exist. We are doing the same in Cambodia. I hope we are going to get to do the same in Burma when we get into that environment. So just there are ways to get involved.

But, again, I just wanted to finish my comment with going back to the previous issue. Because I have a saying that is up on my bulletin board regarding the importance of drawing civil society and activists on the ground. And it is: "Nothing about them without them". And I think that that typifies the attitude that we need in these environments.

Mr. POSNER: If I can just add one anecdote.

I mentioned in my opening statement that my colleague Sonni Efron, who is here, was part of an effort -- helped lead an effort to have journalists and bloggers from 13 countries in Tunisia 2 weeks ago for World Press Freedom Day. It is interesting a lot of the governments in the Middle East and North Africa know each other well, but the activists know each other less well. They have don't have the opportunities.

So we can be a convener, a convener to make those connections both to share experience, to learn about how to protect one another. We found a huge appetite for just learning how do you use the Internet in a protective way? How do you use technology? How do you protect yourself when as a journalist you are in a demonstration?

We sort of assume that everybody has a sense of this. These are people who have been in very isolated societies. So we don't necessarily have to have the answer, but by having the resources to bring people together we can begin to build a network of activists who learn from each other, reinforce each other, and protect each other.

Mr. TILLEMANN: If I can add one quick point to that.

Several weeks ago, Secretary Clinton announced a new initiative called the LEND Network, which stands for Leaders Engaged in New Democracies. And this is a partnership that we have developed together with the government of Estonia, Google, the Club of Madrid, and a wide range of other partners, both in civil society and government, under the auspices of the Community of Democracies. And this

initiative is going to bring together key leaders from countries that have had successful transitions to democracy with key leaders in countries that are in the midst of ongoing transitions to democracy, both in government and in civil society, and then create a secure virtual platform that will allow these leaders to interact on an ongoing basis as they have questions and have a need for information, and it will allow them to exchange best practices and provide them with the tools they need to hopefully advance their work.

Mr. ELLISON: Very encouraging.

Unfortunately, Mr. Chairman, they are dragging me to another meeting, but I do want to thank all the witnesses, and I want to try to make it back. Thank you all very much for what you do.

Mr. McGOVERN: Thank you, and let me close just by reiterating some of my concerns that I made at the beginning.

We talk about strengthening civil society. I oftentimes think we need to make a distinction between military assistance and development assistance. Because, oftentimes, the military assistance is used to undo the very things that our development assistance is trying to help encourage. And that is why I am very concerned about the Bahrain situation and Egypt situation.

And, also, the other thing I worry about -- and this has just been something that I have been concerned about for as long as I have been involved in any kind of human rights work -- is that sometimes I think we play favorites, depending on what government we are dealing with.

You know, one of the things that bothered me about the debate we had on the Colombia Free Trade Agreement was I thought not enough attention was given to the plight of the human rights defenders in Colombia or the situation facing labor unions. Colombia is an ally and a friend, and we want to continue that relationship. But sometimes your friends have to be critics and to urge them to understand that this is a problem.

I mean, you know, this is not just this administration. I go back to the previous administration. I mean, you know, we have been told that things were getting better, that things are fine, and yet the numbers of human rights defenders that come under attack and who are threatened, who are killed, the plight of the trade unionists -- and one of my biggest concerns about the trade agreement was that, once it was done, the pressure was off. Same with Bahrain. I worry about once the assistance goes forward, then the pressure is off.

And I understand all the other things that you are doing, and I appreciate it. So this is not meant as a direct criticism of anything that anyone here is doing. Just my general concern, just venting as part of my therapy at the end of this panel.

But it is just there are people who are hurting under governments that we have

very friendly and cozy relationships with. And I am not advocating that we break those alliances, but sometimes we have a little leverage, especially with military assistance and security assistance. So I just leave you with that.

I appreciate this administration's attention to this issue. I appreciate all the work that you are doing and this kind of new-found focus on helping strengthen civil society. And I speak for everybody on this Commission when I say we want to be helpful, and to the extent you have any recommendations for Congress along the way please don't hesitate to give us a call.

Thank you very much. I appreciate it.

We are going to call our next panel: Brian Dooley, Director of the Human Rights Defenders Program at Human Rights First; Adotei Akwei, Managing Director of Government Relations with Amnesty International; and Lisa Haugaard, Executive Director, Latin America Working Group.

And while we are waiting for this panel, I also want to enter into the record additional testimony from Lisa Davis at Freedom House.

**STATEMENTS OF BRIAN DOOLEY, DIRECTOR, HUMAN RIGHTS DEFENDERS PROGRAM, HUMAN RIGHTS FIRST; ADOTEI AKWEI, MANAGING DIRECTOR OF GOVERNMENT RELATIONS, AMNESTY INTERNATIONAL; AND LISA HAUGAARD, EXECUTIVE DIRECTOR, LATIN AMERICA WORKING GROUP**

Mr. McGOVERN: Mr. Dooley, why don't we begin with you.

Welcome. Press your microphone so your light is on.

**STATEMENT OF BRIAN DOOLEY**

Mr. DOOLEY: Thank you very much for convening this hearing, Mr. Chairman, on the difficulties facing human rights defenders worldwide and for your strong and consistent leadership on behalf of the Commission for defenders, specifically for your advocacy of human rights as a core objective of the U.S. foreign policy.

Today's focus on restricting legislation for NGOs is a vital and timely one. The 2012 report from the U.N. Special Rapporteur on Human Rights Defenders to the General Assembly later this year will also focus on the use of legislation to regulate the activities of human rights defenders.

My colleagues on this panel will give specific country examples, but I want to affirm that the refusal to recognize human rights NGOs, the punitive restrictions on their funding, and the judicial harassment of their staff all continue to hinder and prevent the work of defenders in many countries. This is an increasingly uncertain and difficult time for human rights defenders, and I want to mention some of the best

practices among U.S. missions engaging with defenders.

The example set by Ambassador Robert Ford in Syria last year was an excellent model for how the U.S. can stand publicly with human rights defenders. And we know from our work in Uganda, Russia, Ukraine, and elsewhere what a valuable role the embassies in those countries have played in engaging positively with them.

At other times, the picture is more mixed, and some human rights defenders who hope for positive engagement with U.S. embassies are disappointed by the lack of outreach from the embassy staff. This is sometimes due to an ambiguity about what is appropriate for them to expect.

The current episode of the Chinese human rights defender, Chen Guangcheng, illustrates the lack of predictability for activists engaging with U.S. missions. Senior U.S. administration officials were repeatedly quoted describing the incident as an extraordinary case involving exceptional circumstances. This characterization sends a confusing signal to other defenders in China contemplating approaching the embassy for help, whether it is with the intention of exploring asylum or asking for other support. Now that other support may change depending on the situation, but it should always include the embassy staff and premises being accessible to vulnerable human rights defenders who wish to discuss their concerns with U.S. diplomats.

Similar confusion arises for our human rights colleagues in Bahrain and Egypt. In the Mubarak era, the U.S. embassy in Cairo was seen as close to the repressive regime, so in the new period it needs to take visible actions affirming its commitment to human rights and to defenders.

For example, U.S. officials should be visiting the workplaces of Egyptian defenders as appropriate to show support for their work and inquire how best to help them or calling the families of activists unjustly held in military detentions to remind them they do not stand alone against the Egyptian Army.

The administration's recent decision in issuing a waiver to deliver unconditionally \$1.3 billion of assistance to the Egyptian military -- despite ongoing human rights violations, including the prosecution of Egyptian human rights activists working alongside American NGO personnel -- has left many human rights defenders doubting the U.S. Government's stated support for human rights and consequentially left feeling isolated. The U.S. Government has work to do to gain the confidence of human rights advocates and democracy advocates in Egypt.

The question is also acute in Bahrain, where the U.S. embassy seem reluctant to engage publicly with one of the main human rights organizations, the Bahrain Center for Human Rights. The BCHR is one of the civil society organizations targeted by the Bahrain regime. It was outlawed by the government in 2004, but it continues to advocate for basic freedoms and rights and to document the ongoing government repression. Its work has been recognized with several major international human rights awards over the last year, and its president, Nabeel Rajab, is one of the

most prominent human rights defenders in the Middle East. He remains in detention since his arrest on May 5th this year, but there has been no public statement about his case from the U.S. Government.

You have mentioned the damage done to the work of local human rights defenders by the new arms sale, and the U.S. embassy has a real image problem in Bahrain amongst human rights activists. In the last few days, human rights activists have brought to my attention that Sunday marks the first day of the first-ever America Week in Bahrain promoted by the embassy. Local activists are disappointed by the U.S. ambassador's public statement about the week which asks, what better way to celebrate the U.S.-Bahrain relationship than an entire week dedicated to a mutual love of culture, art, education, security, business, film, cuisine, and shopping? Defenders point out that, although Bahrain is in the grip of a violent government crackdown, there is no room for human rights on the ambassador's list.

We commend your own leadership during the human rights crisis in Bahrain, Mr. Chairman. Human rights defenders there tell me that the work you have done in the House and what Senator Wyden has done in the Senate is noticed, respected, and appreciated.

While U.S. diplomats in many countries are effectively promoting human rights in their everyday work, we often hear from human rights defenders about a lack of clarity on what to expect from U.S. embassies, partly because the rotation in personnel at an embassy can result in a very different approach to engaging in civil society. Some human rights defenders have also unrealistic expectations about what they should expect from U.S. diplomatic missions, and this can lead to confusion and frustration on both sides.

We believe that the best way to set those expectations is to publicly issue a set of guidelines for embassy engagement with human rights defenders. These guidelines should be as specific as possible, something that defenders can refer to and use. The Guiding Principles on NGOs produced by the DRL in 2006 aimed at civil society organizations is a strong starting point, and the EU and Norwegian governments have also produced useful sets of guidelines which defenders in various parts of the world say have worked beneficially, if sometimes imperfectly, for some years.

And, today, the Council for Global Equality, a U.S.-based NGO with 21 partner organizations, including Human Rights First dedicated to advancing U.S. leadership on LGBT issues, released a new guide for LGBT human rights defenders abroad to help them understand the ways in which U.S. embassies can support their work. Human Rights First would be happy to work with DRL to craft language to serve as a tool kit for defenders.

Assistant Secretary Posner is right when he just said that guidelines will only take us so far, and his observations were focused more on seeing them as possible directions for embassy professionals. But another vital purpose is what they present as a public position, what they communicate to defenders about what the U.S. Government can offer.

Mr. Tillemann rightly described this as a moment of profound change, and now would be an ideal time for the U.S. to lay out publicly what human rights defenders can expect from it and from its embassies, what it will and won't do, and what sort of engagement it is prepared to conduct with them.

Some ideas for what could be included in guidelines for engagement with defenders by U.S. embassies would be to establish regular contact with them, including inviting them to the embassy and visiting them in their offices, to appoint liaison officers to develop relationships with defenders in local communities. I think Ambassador Steinberg's example of offering photo ops to human rights defenders in Angola is exactly the sort of thing which ought to be offered. It is happening but on an ad hoc basis, and it is the sort of thing that could be clarified and standardized.

As the Arab Spring and the escape of Chen Guangcheng prove, human rights is an enduring goal of people everywhere. Human rights defenders are entitled to a clear and consistent message from the U.S. Government, just as U.S. diplomats deserve guidance on what is expected of them and the tools they can use.

Thank you again, Mr. Chairman, for your leadership and for this opportunity, and I look forward to your questions.

[The statement of Mr. Dooley follows:]

**Written Testimony of Brian Dooley**

**Director, Human Rights Defenders Program**

**Human Rights First**

Hearing on

**“Threats to Civil Society and Human Rights Defenders Worldwide”**

before the

Tom Lantos Human Rights Commission

May 17, 2012

To the Honorable James McGovern and Members of the Commission:

Thank you for convening this hearing to examine the difficulties facing human rights defenders worldwide and the strategies and tools that the United States can use to support their courageous and necessary work. We are grateful, Mr. Chairman, for your strong and consistent support, and that of the Commission, for defenders, and specifically for your advocacy of human rights as a core objective of U.S. foreign policy.

Today's focus on restrictive legislation for NGOs and the criminalization of human rights work in various countries is an important and timely one. The 2012 report from the UN Special Rapporteur on Human Rights Defenders to the General Assembly later this year will also focus on the use of legislation, including criminal legislation, to regulate the activities of human rights defenders.

I appreciate the opportunity to be here this afternoon to share Human Rights First's experience working with defenders around the world, and to offer recommendations for how the U.S. Government can engage civil society and constructively support the rights of peaceful activists to operate in a safe environment.

I have been fortunate enough to work with human rights defenders from many countries on every continent for more than 20 years. I now direct a program at Human Rights First focused on leveraging U.S. leadership to expand and promote the space for human rights activists to advance their work in their own countries.

My colleagues on this panel will give specific country examples, but I want to affirm that the non-recognition of human rights NGOs, punitive restrictions on their funding and judicial harassment of their staff all continue to hinder and prevent the work of human rights defenders in many countries.

Human Rights First knows from long experience that defenders working at some level of risk look to the U.S. government for protection, support and encouragement in their work, and often find it. The fact that Chen Guangcheng sought out the American embassy earlier this month is a testament to that fact.

Among the most important elements of U.S. support are the statements and speeches – official and unofficial – by U.S. diplomats that identify individual leaders in civil society and describe their objectives and work. Similarly, Secretary Hillary Clinton's regular visits with civil society in her travels are often significant signals of recognition and support for non-governmental voices in repressive societies. We welcome the important work of Assistant Secretary of State for Democracy, Human Rights, and Labor Michael Posner and his staff; their outreach to human rights defenders and protection of their rights is absolutely critical. DRL program support, and other funds that go to directly to human rights NGO's in country, are strong pillars of a U.S. strategy that seeks to bolster human rights defenders and other pluralistic voices in civil society.

The U.S. State Department's Human Rights Defenders Award and the Global Human Rights Defender Fund, also, are well respected, credible initiatives applauded by human rights defenders all over the world.

As valuable as the rhetoric, awards, and funding are, though, U.S. intent and influence are realized in countries around the world through the U.S. missions. For that reason, I want to use this testimony to review what we believe are "best practices" among U.S. missions that are engaging with defenders and their work effectively and impressively.

The example set by Ambassador Robert Ford in Syria last year was an excellent model for how the United States can stand publicly with human rights defenders in difficult and dangerous situations. His visits to Hama and other areas communicated clearly—and literally—that the U.S. Government stands with human rights defenders in Syria.

We know from our work in Uganda that the U.S. embassy has played an important role publicly and behind the scenes in supporting and promoting the work of organizations united in opposition to the anti-homosexuality bill. The engagement ultimately led to a phone call from President Obama to President Museveni that is often cited as one of the factors why the bill was tabled. In Russia and Ukraine, U.S. diplomatic missions have been closely engaged with human rights defenders in the capital cities and in other regions on issues ranging from selective enforcement to environmental protection to LGBT rights, which has elevated these human rights issues to the high-level diplomatic priority needed to advance them. NGOs and human rights defenders in difficult circumstances depend on resources from the international community and they often turn to the U.S. These examples represent the best of what the U.S. can offer.

At other times the picture is more mixed, and some human rights defenders who hope for positive engagement with U.S. embassies and consulates are disappointed by the lack of outreach from the embassy

staff. This can often be attributed to an ambiguity about what is appropriate for human rights defenders to expect.

The recent episode with Chinese human rights defender Chen Guangcheng illustrates the lack of predictability for activists engaging with U.S. missions. Quite apart from the confusion surrounding who told Chen what and when, and the reversal of his initial decision to stay in China, senior U.S. administration officials were repeatedly quoted describing the incident in terms such as, “This was an extraordinary case involving exceptional circumstances.” This characterization sends a confusing signal to other defenders in China who are contemplating approaching the embassy for help, whether it is with the intention of exploring asylum or asking for a more routine expression of solidarity. That support may take many different forms, depending on the situation, but it should always include the embassy staff and premises being accessible to vulnerable human rights defenders who wish to discuss their concerns with U.S. diplomats.

Similar confusion arises for our colleagues in Bahrain and Egypt, who tell us they are often disappointed by the action or inaction of U.S. embassies. In Egypt, the defenders’ questions reflect the ambiguity around the goal of U.S. policy. That is to say, in the Mubarak era, the U.S. embassy in Cairo was seen as close to the repressive regime, and so, in the new period, it needs to take visible actions affirming its commitment to human rights and its defenders. For example, U.S. officials should be visiting the workplaces of Egyptian defenders, as appropriate, to show support for their work, and inquire how to best help them; or calling the families of activists unjustly held in military detention to remind them they do not stand alone against the Egyptian army.

While U.S. leaders have now acknowledged the false choice between stability and human rights, they have yet to match policies to rhetoric. Of course, the administration’s recent decision in issuing a waiver to deliver unconditionally \$1.3 billion of assistance to the Egyptian military despite ongoing human rights violations, including the prosecution of Egyptian human rights activists working alongside American NGO personnel who were subsequently able to leave Egypt with U.S. government assistance, has left many human rights defenders doubting the U.S. government’s stated support for human rights and consequently feeling isolated.

As one Egyptian activist put it in a recent article on the Fikra Forum website: “The U.S. has lost much of its credibility due to its two-faced discourse witnessed over the past decades, chanting slogans in support of democracy and human rights, while simultaneously supporting non-democratic regimes on the ground.”

The U.S. government has work to do to gain the confidence of human rights activists and democracy advocates in Egypt.

The question is also acute in Bahrain. The U.S. embassy is picking the defenders with whom it engages rather narrowly. Unfortunately, it is reluctant to engage publicly with one of the main human rights organizations, the Bahrain Center for Human Rights (BCHR).

The BCHR is one of the civil society organizations targeted by the Bahrain regime. It was outlawed by the Bahraini government in 2004, after its then-president Abdulhadi Al Khawaja was arrested for criticizing the Prime Minister of Bahrain. Al Khawaja was arrested again last year and sentenced to life in prison in an unfair military trial for his part in the pro-democracy protests last year. He has been on a hunger strike since February 8, 2012. Despite not being formally recognized by the government, BCHR continues to advocate for basic freedoms and rights, combat discrimination, and provide support and protection for victims of government repression.

The BCHR won several international awards over the last year, including the 2012 Roger N. Baldwin Medal of Liberty. BCHR’s President, Nabeel Rajab, is one of the most prominent human rights defenders in the Middle East, and the winner of the 2011 Ion Ratiu Democracy Award given by the Woodrow Wilson Center. He remains in detention since his arrest on May 5 this year but there has been no public statement about his case from the U.S. government. It is curious why the Embassy would draw this line.

Last Friday's news that the U.S. is to resume large-scale weapons sales to Bahrain is another damaging blow to human rights defenders there who are trying to argue that peaceful protest, supported by influential international players, will pressure the regime into reform. Despite the statement coming out of the State Department that the arms sale is going forward because of U.S. "national security interests," and not as a reward for progress on human rights, human rights defenders tell us that the resumption of arms sales will be seen by the Bahraini dictatorship as a green light by the US to continue its abuses. It would have been useful, if not consequential, if the embassy had sought out the views of Bahraini defenders of how a resumption of US-Bahraini military cooperation would affect their work and safety.

We commend your leadership during the human rights crackdown in Bahrain, Mr. Chairman; unfortunately you are one of the few U.S. officials whose name is still spoken by human rights defenders in the country in a positive way.

Many U.S. diplomats are actively and effectively promoting human rights in their everyday work; many understand and use the tools of the U.S. Government to great effect. However, what we often hear from human rights defenders in different countries is they experience a lack of clarity about what to expect from U.S. embassies, partly because a rotation in personnel at an embassy can result in a very different approach to engaging with civil society. For example, in 2008 and 2009 the U.S. embassy in Riga refused to send a representative to the Pride March, even though most European missions did so; much to the frustration of local LGBTI human rights defenders. But with a change of policy and personnel, I am delighted to see that Deputy Assistant Secretary Tom Melia has agreed to join this year's Baltic pride events at the end of the month.

Some human rights defenders also have unrealistic expectations about what they should expect from U.S. diplomatic missions, and this can also lead to confusion and frustration on both sides.

It would be in the interests of the human rights defenders and the U.S. government to clarify these expectations and identify a standard human rights procedure for the United States. This would also demonstrate to other governments that engagement with human rights defenders is not "special interference" in their country's affairs, but part of a global standard used by U.S. embassies all over the world.

We believe the best way to set those expectations is to publicly issue a set of guidelines for embassy engagement with human rights defenders. In February 2010, Human Rights First, Freedom House, and human rights activists from 27 countries joined together in recommending to President Obama that his administration issue such guidelines.

The guidelines should be as specific as possible, and something that human rights defenders can refer to and use. The Guiding Principles on Non-Governmental Organizations produced by the Bureau of Democracy, Human Rights and Labor in 2006, and aimed at civil society organizations is a strong starting point. As the 2010 document recommended, "Strengthen the U.S. Guiding Principles on Non-Governmental Organizations (issued in 2006) by developing them into action guidelines for embassies, missions and other U.S. diplomatic representatives around the world."

It is also worth recognizing that the European Union and Norwegian governments have produced useful sets of guidelines, and defenders in various parts of the world say they have worked beneficially, if imperfectly in some cases, for some years.

Today, the Council for Global Equality, A U.S.- Based NGO with 21 partner organizations (including Human Rights First) dedicated to advancing U.S. leadership on LGBT rights throughout the World, released a new guide for LGBT human rights defenders abroad to help them understand the ways in which U.S. Embassies can support their work. It highlights the various diplomatic tools that U.S. Embassies use to advance a range of human rights and development objectives, from diplomatic "Demarches", to support for LGBT refugees to the drafting of the annual human rights report that is required of every embassy. The guide also looks at various opportunities that exist for U.S. Embassies to support, but technically and financially, LGBT advocates in host countries including opportunities for "in-kind" support through

technical or legal advisors, as well as program funding opportunities that exist in some countries and regions. These guidelines hopefully will soon be accompanied by a “toolkit”, or a set of directives to embassy staff from the state department headquarters, making embassy staff aware of what it can and should do to protect LGBT activists in country.

Human Rights defenders need the same to ensure some level of consistency and clarity to the work of embassies around the world. Human Rights First would be happy to work with DRL to craft this language to serve as a directive or “toolkit” for defenders. Such a document would have several purposes, including clarity of expectations and tools for embassy staff; clear instructions to defenders about what is acceptable to ask or expect of U.S. Embassy staff; and an explanation of the role of U.S. Missions in protecting Human Rights.

A Set of guidelines, while desirable in themselves, could be part of a wider Human Rights strategy in some U.S. Diplomatic missions, which might include Human Rights Objectives in key countries setting out what individual embassies want to achieve in the coming year(s). Some U.S. Embassy websites, for example, have areas dedicated to business or trade and commerce, listing resources for local and U.S. companies. But too often human rights seem to be poorly resourced, unfashionable and neglected part of an embassy’s work.

We understand that DRL has staff in some countries (including Egypt, Pakistan, Iraq, and China) aimed at providing a more dedicated voice for human rights issues in embassy discussions on national and regional human rights advocacy, by ensuring that human rights are not left to a junior member of the embassy staff who is likely to have other portfolios to administer.

With new challenges to their work from governments restricting funding and criminalizing their work, human rights defenders are increasingly uncertain about the environment in which they operate. Now would be an ideal time for the U.S. to lay out publically what human rights defenders can expect from it and its embassies, what it will and will not commit to do, and what sort of engagement it is prepared to conduct with them.

Some ideas for what the State Department could include in guidelines for engagement with human rights defenders by U.S. Embassies, Consulates, and other U.S. Government representatives might include:

- Establish and maintain regular contact with human rights defenders - including inviting them to the U.S. Embassy and visiting them at their offices;
- Appoint liaison officers to develop and maintain relationships with human rights defenders in local communities;
- Observe trials of human rights defenders, where appropriate;
- Coordinate with other like-minded governments on their analysis and monitoring of the situation of human rights defenders, especially those at risk;
- Assist in establishing networks of human rights defenders at an international level – including facilitating meetings;
- Use the media to increase public visibility and support for human rights defenders highlighting specific cases;
- Continue to address the situation of human rights defenders in their reporting to the U.S. Department of State and other parts of the U.S. Government, particularly any threats or attacks against human rights defenders;

- Inform human rights defenders of available U.S. Government programs, grants, and resources for which they can apply, and assist in the application process, as appropriate;
- Monitor/ask about technological tools used by human rights defenders, ensuring their rights to free expression and association are not violated.

More broadly, the U. S. Government’s overall Foreign Policy objective should include the promotion of an environment where human rights defenders and operate openly and freely, and include a consistent, transparent, approach to human rights defenders and their work. Secretly, Clinton said in her remarks in Krakov in July 20120 That: “When NGOs come under threat, we should provide protection where we can, and amplify the voices of activists by meeting with them publically at home and abroad, and citing their work in what we say and do;”

A public description of how the U.S. Government could operationalize these practices might include:

- ❖ A public recognition that the U.S. Government supports human rights defenders and their work;
- ❖ A public recognition that by challenging injustice and raising awareness about human rights, human rights defenders are essential to bringing about positive, lasting change within a society;
- ❖ A stated commitment to protect human rights defenders against attacks and threats from government and non-state actors;
- ❖ A stated commitment that when senior U.S. Government officials make country visits they should, as a matter of course, meet with human rights defenders;
- ❖ A stated commitment that political dialogues between the U.S. Government and foreign governments should cover the situation of human rights defenders;
- ❖ A stated commitment that the U.S. Government should publicly raise individual human rights defender cases of concern whenever necessary;
- ❖ Encouragement for the establishment and support of national (and regional) bodies for the promotion and protection of human rights, in accordance with the Paris Principles. Nationally, these may include national human rights institutions, ombudsman’s offices, and human rights commissions;
- ❖ A stated commitment to the principle that human rights defenders should have access to resources and support, including financial, from abroad;
- ❖ Public actions showing the U.S. Government to be working closely with other like-minded countries on human rights defenders issues in the Human Rights Council, the UN General Assembly, and elsewhere.

As the Arab Spring and the bold escape of Chen Guangcheng prove, human rights is an enduring goal of people everywhere, and the United States wants to support those daring activists who will promote them. Human rights defenders looking to the United States for moral and material support are entitled to a clear and consistent message from the U.S. government, just as the U.S. diplomats working to advance human rights overseas deserve guidance on what is expected of them and what tools they can use to achieve it. These are some of the policy steps and operational improvements the U.S. Government should make as it seizes on the opportunities of the day to realize a world with more human rights and fewer human rights defenders.

Thank you, Mr. Chairman, for your leadership, and for this opportunity. I look forward to your questions.

Mr. McGOVERN: Thank you very much.

Mr. Akwei.

## **STATEMENT OF ADOTEI AKWEI**

Mr. AKWEI: On behalf of Amnesty International I would like to thank the Commission for inviting us to participate, and in particular to yourself, Chairman McGovern, and Chairman Wolf and also to your staff. We have enjoyed working with them in the past, and we continue to look forward to collaboration in the future.

It is a nice pleasure to actually follow a panel of administration where many of them are peers and mentors, which is unfortunately not often the case.

The focus of our deliberations today, threats to civil society and human rights defenders worldwide, is extremely important and has been a core focus of Amnesty International since it was founded 51 years ago. The health and well-being of domestic civil society and the safety, security, and ability of human rights defenders to operate are key measurements of how free or open a society or a country truly is.

A country can ratify all of the key international documents and covenants, it may pass noble-sounding legislation referring to the importance of human rights in their country, it may issue powerful press releases and set up government institutions, but, in the end, the most credible measurement is how a government actually treats its own people and in particular those who critique or disagree with their policies and practices.

The ability and the manner in which those who challenge the status quo are able to exercise these fundamental rights are true indicators that show whether a government's commitment to principles of human rights are reality or just empty words. This dynamic also critically highlights negative or positive trends that can be bellwethers for political instability and potential conflict.

The full enjoyment of the rights to free expression, association, and assembly are deeply intertwined with the strength of the rule of law and good governance and must be constantly protected and reinforced. If the individuals and organizations who are dedicated to this very cause are themselves declared illegal, banned from expressing their opinions, restricted in how they operate and on what issues they work, arrested, beaten, or if they are disappeared or killed, the consequences for the rest of the country are more than just chilling. They represent an emphatic statement by those in power that the government and only the government will decide what rights are enjoyed and who will enjoy them.

The members of this Commission know far too well the dangers that such an approach can lead to, and unfortunately the current and growing threats to civil society organizations and human rights defenders in Ethiopia is a strong indicator that the government is moving in the wrong direction, moving further away from the protection and promotion and respect of human rights.

Members of the Commission, the recent and ongoing developments in Ethiopia linked to policies and laws implemented by the government of Prime

Minister Meles Zenawi have all but gutted civil society in Ethiopia. While my comments today are limited to civil society organizations, I would also like to reiterate that Amnesty International has certain concerns about other human rights violations, including but not limited to prisoners of conscience, political prisoners, and torture.

It is also important to remember that Ethiopia is a signatory to several international and regional human rights covenants that require it to protect and respect the rights it is slowly but surely disassembling. Ethiopia is a signatory to the ICCPR and to the African Charter on Human and People's Rights. Further, the U.N. declaration on the rights and responsibilities of individuals, groups, and organs of society to promote and protect universally recognized human rights and fundamental freedoms, which was adopted by the General Assembly in 1998, highlights other rights and, while they are not binding, they are strong indicators of what a government is expected to do.

Despite this, the Ethiopian government has passed a number of laws that deliberately and directly violate and undermine those core rights, namely, the Anti-Terrorism Proclamation and the Charities and Societies Proclamation, both passed in 2009.

Amnesty International feels that the current visit of the Prime Minister to the G8 summit presents a critical opportunity for the Obama administration to strongly urge the government of Ethiopia to move in the right direction and to change course. The United States and the international community must vigorously press the Ethiopian authorities to repeal the Charities and Civil Societies Proclamation, or amend it, and the same to the Anti-Terrorism Proclamation and the Mass Media Proclamation and other legislation which violates Ethiopia's obligations under the ICCPR and the African charter.

I will stop there to save us time for question and answer.

[The statement of Mr. Akwei follows:]

**Threats to Civil Society and Human Rights Defenders Worldwide:  
Ethiopia Silencing Dissent and Dismantling Civil Society**

Testimony from Amnesty International USA  
Before the House Tom Lantos Human Rights Commission

May 17, 2012

Presented by Adotei Akwei<sup>1</sup>

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<sup>1</sup> Prepared by Claire Beston, Iona Kelly and Adotei Akwei

## **I. Acknowledgements**

On behalf of Amnesty International USA, I would like to thank the Tom Lantos Human Rights Commission, and in particular Chairman Frank Wolf and Chairman Jim McGovern, for the chance to participate in today's hearing. We are grateful for your leadership on the Commission and have enjoyed working with the dedicated human rights advocates that have staffed the Commission since its establishment - and we look forward to further collaboration going forward.

Amnesty International is the world's largest human rights organization, with more than 3 million supporters in more than 150 nations and territories. There are 80 country chapters of Amnesty International and here in the United States we have nearly 500,000 supporters whose dedication to human rights has impacted both policy and practice around the world.

## **II. Summary**

Amnesty International has serious concerns with the state of human rights in Ethiopia. While today's testimony specifically focuses on threats to civil society organizations (CSOs) and human rights defenders (HRDs) within Ethiopia, the issues that we are raising are so intertwined with broader issues such as the use of torture and impunity for the security forces, that in order to effectively address the clampdown on human rights defenders and civil society organizations, will require addressing the aforementioned concerns as well.

### ***AI's Human Rights Concerns***

Amnesty International is extremely concerned over legislation and policies being pursued by the government of Prime Minister Meles Zenawi, which amount to an institutionalized assault on human right defenders and civil society organizations.

Laws such as the Charities and Societies Proclamation, the Anti-Terrorism Proclamation and the Mass Media Proclamation, have restricted and hampered what CSOs and human rights defenders can work on, what they can say and how they operate.

The laws have established overly broad definitions of what constitutes terrorism and a range of activities and statements that the government has defined as encouraging terrorism - while at the same time, are crushing the very institutions and individuals who bravely seek to protect the rights of individuals and organizations and ensuring that Ethiopia adheres to its regional and international human rights obligations. The result has been the arrest and detention of hundreds of members of the media and the financial collapse of the country's two largest human rights organizations.

### ***Key Focus Areas for Today's Hearing***

The focus of our deliberations today, Threats to Civil Society and Human Rights Defenders Worldwide, is extremely important and has been a core focus for Amnesty International since it was founded 51 years ago. The health and wellbeing of domestic civil society and the safety, security and ability of human rights defenders to operate, are key measurements of how free or open a society or country truly is. A country can ratify all of the key international documents and covenants, it may pass noble sounding legislation referring to the importance of human rights in their country, it may issue powerful press releases and set up government institutions - but in the end, the most credible measurement is how a government actually treats its own people and in particular, how it treats those who critique or disagree with their policies and practices.

The ability and the manner in which those who challenge the status quo are able to exercise these fundamental rights are the true indicators that show whether a government's commitment to the principles of human rights are a reality or just empty words. This dynamic also critically highlights negative or positive trends that can be critical bell weathers for political instability and potential conflict. The full enjoyment of the rights to free expression, association and assembly are deeply intertwined with the strength of the rule of law and good governance and must be constantly protected and reinforced. If the individuals and organizations who are dedicated to this very cause are themselves declared illegal - banned from expressing their opinions, restricted in how they operate and on what issues they work, arrested,

beaten, disappeared or killed - the consequences for the rest of country are more than just chilling. They represent an emphatic statement by those in power that the government, and only the government, will decide what rights are enjoyed and who will enjoy them.

The members of this Commission know far too well the dangers that such an approach can lead to - and unfortunately, the current and growing threats to civil society organizations and human rights defenders in Ethiopia is a strong indicator that the government is moving in the wrong direction, moving further away from the protection and promotion of human rights.

Members of the Commission, the recent and ongoing developments in Ethiopia linked to policies and laws implemented by the government of Prime Minister Meles Zenawi, have all but gutted civil society in Ethiopia. While my comments today are limited to civil society organizations and human rights defenders, I would like to reiterate that AI also has serious concerns regarding other human rights violations in Ethiopia including but not limited to prisoners of conscience, political prisoners and torture.

It is also important to remember that Ethiopia is a signatory to several international and regional human rights covenants that require it to protect and respect the rights it is slowly but surely disassembling. Ethiopia is a signatory to the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples Rights both of which affirm:

- the right to freedom of expression;
- the right to freedom of association; and
- the right to freedom of assembly.

Further the UN Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms which was adopted by the General Assembly in 1998 highlights other existing rights that are critical to CSOs and human rights defenders including:

- the right to receive funding (Article 13);
- the right to access international bodies (Article 9, para.4);
- the right to participate in government (Article 8); and
- the right to the lawful exercise of his or her occupation or profession (Article 11)<sup>2</sup>.

Despite this, the Ethiopian government has passed a number of laws that deliberately and directly violate and undermine these core rights, namely the Anti Terrorism Proclamation and the Charities and Societies Proclamation, both passed in 2009.

### ***Recommendation***

The United States and the international community must vigorously press the Ethiopian authorities to reverse course and amend or repeal the Charities and Societies Proclamation, the Anti- Terrorism Proclamation and the Mass Media Proclamation and other legislation which violates Ethiopia obligations under the ICCPR and the African Charter.

### **III. Silencing Dissent and Dismantling Civil Society**

#### ***Anti-Terrorism Proclamation***

Over the past several years there has been a sustained attack on freedom of expression, with the crackdown increasing dramatically in 2011. In recent trials of journalists and opposition members, freedom of expression has been criminalized while peaceful opposition to the government and calls for peaceful protest are being interpreted as acts of terrorism under the Anti-Terrorism Proclamation.

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<sup>2</sup> Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UNGA, 1998.

Passed in July 2009, the law includes an excessively broad provision on what constitutes terrorist activities which can be used to criminalize peaceful and legitimate activities. The law includes the following sweeping definition: the “encouragement of terrorism” that makes the publication of statements “likely to be understood as encouraging terrorist acts” punishable by 10 to 20 years in prison. These provisions mean that critics of the government such as journalists, members of civil society and political opponents can be charged for encouraging terrorism based on the government’s discretion.

The impact has been significant. Since early 2011, over 100 journalists and political opposition members have been arrested and subsequently charged and prosecuted for terrorism and other offenses, including treason. All were arrested while exercising their peaceful and legitimate rights to free expression and free association, such as writing articles critical of the government, engaging in other journalistic reporting, involvement in calls for peaceful protest, and even applying for permits to demonstrate. The following is a snapshot of those who have been targeted.

1. In June 2011, journalists Woubshet Taye, deputy editor of the weekly Awramba Times newspaper, and Reyot Alemu, an English teacher and regular contributor to the Fitih newspaper, were arrested. They were subsequently found guilty on three terrorism related charges and sentenced to 14 years’ imprisonment. Much of the evidence used against them related to their reporting of, and alleged involvement in, the appearance of slogan *Beka!* (“Enough!”) around Addis Ababa in early 2011, as a call for peaceful protests against the government to take place.
2. In July 2011, Swedish journalists Martin Schibbye and Johan Persson were arrested in the Somali region. They had entered the country illegally to report on the ongoing conflict in the region, to which access for independent monitors, journalists and human rights activists is severely restricted. Serious allegations continue to be received from the region, of violations being committed by the Ethiopian army against the civilian population. In December, the two Swedes were convicted on terrorism related charges and sentenced to 11 years’ imprisonment. Dissident journalist Eskinder Nega, this year’s winner of the prestigious PEN/Barbara Goldsmith Freedom to Write Award is still on trial on terrorism and treason charges, after criticizing the government, and calling for reform and increased press freedom. The verdict in his trials has been postponed until June 21.

The arrests, prosecutions, and imprisonment of journalists and other government critics has had severe implications on civil society and the exercise of freedom of expression in the country. A chilling message has been sent to anybody who has concerns about the policies and actions of their government - to keep quiet, ask no questions or risk arrest. Several journalists and opposition members have fled the country as a result.

### ***Charities and Societies Proclamation***

Throughout Ethiopia, human rights organizations struggle to operate due to severe restrictions placed on their work by the 2009 Charities and Societies Proclamation. Some of the restrictions established by this law include denying human rights organizations access to essential funding and endowing the government’s Charities and Societies Agency with sweeping powers to interfere in the operations and activities of human rights organizations, which among other concerns further endangers victims of human rights violations by contravening essential principles of confidentiality.

This law has had a devastating impact on human rights work in the country, forcing organizations to cut programs, close offices and lay off staff. Human rights organizations in Ethiopia have shrunk in both number and in size. The law has also been used by the government to freeze assets of more than US\$ 1 million belonging to the country’s two leading human rights organizations.

During 2008, the last year before the law was passed, the Ethiopian Women Lawyers Association (EWLA), the country’s leading women’s rights organization, provided free legal aid to over 17,000 women in addition to other activities that tens of thousands of participants benefited from. Today, EWLA is barely functioning, with limited legal aid for women provided by volunteers.

The consequence of this law is most severe for victims of human rights violations who are being denied access to assistance and redress. For example, there continue to be unabated allegations of human rights violations, often linked to the Ethiopian security forces. The law has significantly reduced the ability of human rights organizations to monitor and document human rights violations, provide assistance to victims, advocate on human rights issues, and provide essential human rights education. This law has therefore directly endangered the promotion and protection of human rights in Ethiopia.

#### **IV. Recommendations for the US government**

The United States and the international community have failed to raise concerns over these laws and policies with the Ethiopian authorities, further emboldening them and also allowing Ethiopia to set a dangerous example for other governments. It is critical that the United States and other members of the international community press the Ethiopian authorities to repeal and reform key legislation and policies. Specifically, Amnesty International urges the United States to:

1. Urge the Ethiopian authorities to observe their obligations under domestic and international law to protect and promote freedom of expression, by immediately ending the practice of arresting those who hold different political opinions;
2. Call upon the Ethiopian authorities to cease the targeting of journalists who are conducting their legitimate professional work, which includes reporting on peaceful protests and reporting on the activities of opposition groups, armed groups and groups proscribed as terrorist organizations;
3. Urge the Ethiopian authorities to cease the use of criminal prosecutions to silence the freedom of expression of opposition politicians, independent media, and other groups critical of the government;
4. Urge the Ethiopian authorities to amend the *Anti-Terrorism Proclamation* to remove provisions that do not conform to rights of freedom of expression guaranteed in international human rights law. Pending such legal reform, do not use charges that criminalize legitimate exercise of the right to freedom of expression;
5. Urge Ethiopian authorities to amend the *Charities and Societies Proclamation* to remove the restrictions on human rights activities, and to recognize, respect and protect the vital work of human rights defenders;
6. Urge the Ethiopian authorities to ensure that all detainees are promptly charged with a recognizable criminal offense or are released immediately and unconditionally;
7. Urge the Ethiopian Government to initiate prompt, thorough, effective and impartial investigations into allegations of torture or other ill-treatment made by detainees, and ensure that, should there be enough admissible evidence, suspected perpetrators are prosecuted and tried in a fair trial in accordance with international standards;
8. Call upon the Ethiopian authorities to make available full details of all those arrested in 2011, including members of political parties and students. Information must include the names, current location and detention status of all detainees;
9. Guarantee that arrested persons are never detained in un-gazetted places of detention. Immediately move any detainees currently held in an unofficial place of detention to a recognized detention center.

#### **V. Conclusion**

The Charities and Societies Proclamation, together with the Anti- Terrorism Proclamation and the Mass Media Proclamation – all introduced since 2008 – have severely limited Ethiopian individuals’ freedom of expression and, specifically, their ability to critique their government, in direct violation of Ethiopia’s obligations under the International Covenant on Civil and Political Rights and under the African Charter for

Human and Peoples Rights. And while the UNGA Declaration on Human Rights Defenders is not binding, the government's actions represent a direct and deliberate effort to crush all forms of dissent in the country. The negative impact of the Charities and Societies Proclamation on the ability of Ethiopian women to fully exercise and protect their rights also raises questions about the government's adherence to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa given the crippling blow the law has dealt to the largest provider of free legal services for women in the country. The United States and other member of the international community must forcefully raise these concerns with the Ethiopian authorities and press them to live up to their international human rights obligations, the people of Ethiopia deserve it and they have a right to it.

Chairman McGovern and Chairman Wolf – thank you for raising this important human rights issue before the Tom Lantos Human Rights Commission, and thank you for giving Amnesty International the opportunity to testify on our concerns and recommendations.

We applaud your continued leadership and look forward to continuing to support your efforts in Congress. Thank you.

Mr. McGOVERN: Thank you very much.

Ms. Haugaard.

#### **STATEMENT OF LISA HAUGAARD**

Ms. HAUGAARD: Thank you for the opportunity to address this important hearing.

Daniel Aguirre was walking home with his wife in Valle del Cauca 3 weeks ago when he was shot and killed. He was a leading figure in the struggle for the rights of sugar cane workers. Aguirre is the sixth Colombian train unionist killed this year and the second killed or disappeared in the weeks since President Obama determined that the Labor Action Plan was sufficiently fulfilled to advance the trade agreement and the 29th trade unionist killed since our government signed the action plan a year ago.

Land rights leader Manuel Ruiz received a message on his cell phone that he had received a prize. As he went to collect it, he and his 15-year-old son, Samir, were disappeared, presumably by paramilitary forces. Their bodies were found a few days later with signs of torture. He had asked the government three times for protection and had only received the cell phone.

Former cabinet minister and journalist Fernando Londono was wounded Tuesday in a car bomb explosion in Bogota that killed two of his body guards and wounded many others. He had been threatened by the FARC guerrillas.

Norma Perez, human rights leader and mother of four, helped to organize a hearing on forced disappearances before Colombia's equivalent of the Tom Lantos Human Rights Commission. Two weeks later, she was disappeared.

Forty-nine human rights defenders were killed in 2011 and six forcibly

disappeared, according to the database maintained by Colombia's human rights groups. Thirty trade unionists were killed, according to the National Labor School. In the first 3 months of this year, 13 human rights defenders were assassinated.

In December, an international verification mission in which I participated visited eight regions of the country to evaluate risks faced by defenders. We found that defenders of all descriptions were facing threats, that well-known defenders were behind bars, and there was a marked difference between an improved, although still flawed, attitude at the national level and the dismissive attitude of many regional officials regarding the risks faced by defenders.

We heard about the following situation in which defenders were threatened and attacked: community members who were protesting the use of a community's land for mining, palm plantations, or military use, family members seeking justice for the death or disappearance of a loved one, and involvement in union organizing, student protests, victims rights rallies, women's groups, LGBT rights, or environmental activism.

Land rights leaders are in the eye of the storm. At least 25 land rights leaders have been killed since the Santos administration took office, and many of them had asked for and failed to receive protection measures.

As they are rarely successfully investigated, we don't know for certain who is behind the attacks, but there are patterns. Paramilitary successor groups are behind many of the threats and attacks against defenders. The FARC guerrillas are responsible for threats and murders, and members of the army and police are responsible for illegal surveillance and arbitrary detention but also for threats and murder.

President Santos promised to ensure that his administration would never publicly attack defenders and reopened dialogue with human rights groups. He shepherded through Congress a landmark bill to return land to some of those displaced by violence, and his administration has put in place some regulatory changes aimed at improving the climate for defenders. But improved dialogue and issuance of new directives have not yet resulted in tangible improvement in protection or justice for human rights defenders.

The following are actions the Colombian government could take to better protect defenders, and the U.S. Government can help by consistently and publicly urging the Colombian government to take these actions.

The single most effective way to protect defenders is to effectively investigate and prosecute the threats and attacks against them. The vast majority of the attacks are an impunity, and threats are virtually never investigated.

Second, the Colombian government must recognize the existence of paramilitary successor groups and act decisively to dismantle them. At a national level they are not doing enough, and on a regional level we found regional authorities

simply deny the existence of the paramilitary successor groups, and that means that they then discount the threats and attacks against defenders or the pleas of defenders or communities for protection.

Third, the Santos administration should consistently affirm the legitimacy of human rights work, speak out against brutal acts against defenders, and sanction officials who place defenders at risk. It started off on a good foot, but it is very inconsistent.

Fourth, the Colombian government needs to improve the protection of human rights defenders in full consultation with defenders. Columbia's government protection program has saved lives, but there is still enormous gaps in actual protection. Measures often don't take into account the specific needs of women, indigenous people, and Afro-Colombians, and they are often very slow to arrive.

The government must consult closely with communities to develop effective protection plans for communities seeking to return to or remain on land affected by violence. Without serious attention to protection and to dismantling the illegal groups behind the violence, displaced communities may return, only to meet their deaths or be displaced again. The murder of Manuel Ruiz really struck a blow on hopes for safe land returns, because that was one of the most closely watched and carefully accompanied land returns in the country.

The Colombian government must also end illegal surveillance of human rights defenders. President Santos did shutter the DAS intelligence agency that had been responsible for so many abuses, but in our verification mission we were still hearing that illegal surveillance is continuing. There was open surveillance by police and military taking photos of victims' rallies and human rights groups' events, but there was also concerns that phones were still tapped and that human rights information and computers were being stolen from groups' offices.

Some 400 former DAS agents have been reassigned to the protection unit. While the government claims these members have been screened, defenders remain very understandably concerned that the very agency that had spied on them and done worse are now assigned to their protection.

It is also important that the Colombian government end unfounded prosecutions of human rights defenders.

What should the U.S. do to support Colombian human rights defenders? On a case level, the U.S. response is often laudable. State Department and embassy officials follow up on specific cases with Colombian authorities, especially on protection issues, and some of the State Department officials who have been helpful on this either were in this room a moment ago or may still be seated behind me.

We are grateful to Members of the U.S. Congress, and particularly to you, Congressman McGovern, for raising the threats and attacks against defenders strongly with the Colombian government and the State Department. Your actions have

absolutely saved lives. Yet the U.S. Government needs to act far more decisively to stand with human rights defenders, and we see this difference between actions on sort of the case level on protection and the big picture, as you referred to in your remarks earlier.

We were very disappointed with President Obama's decision to determine that the Labor Action Plan was sufficiently fulfilled to allow the trade agreement to go into force, despite clear evidence presented by unions and human rights groups that insufficient progress had been made and that antiunion violence continued to be alarming. We and our Columbian human rights partners are often, frankly, disheartened by glowing statements of progress by U.S. officials, high-level U.S. officials, when we see a dire situation on the ground.

Since President Obama announced on April 15th that the trade agreement would go into effect, there appears to be a wave of retaliation against trade unionists involved in organizing in the priority sectors of the Labor Action Plan, namely sugar cane, palm, and the port workers.

Four final steps the U.S. could take would be insisting on compliance with the Labor Action Plan and keeping a focus on antiunion violence. We do not think the Labor Action Plan is over and fulfilled, and we really hope that the White House, State Department, Labor Department, and, of course, Congress press publicly for justice and protection for trade unionists using that.

Second, the U.S. must urge that there be no backward steps on justice for members of the military accused of grave human rights violations, including insuring that human rights crimes are tried in civilian courts. We appreciate the actions that the State Department has recently taken regarding the question of ensuring that crimes committed by the military go to civilian court, but we remain seriously concerned about other proposals that are still floating before the Colombian Congress, in fact advancing before the Colombian Congress, that could lead to impunity, including for members of the military accused of grave human rights crimes, and some of those crimes are against defenders.

The United States should also emphasize the importance of dismantling paramilitary successor groups. It was really concerning when our highest-level military and Defense officials recently visited Colombia and appeared to emphasize almost exclusively U.S. support for Colombia's campaign against the FARC guerrillas. This should have been accompanied by a message urging decisive action against the paramilitary successor groups, who are responsible for a substantial part of the violence against defenders and communities.

Finally, the U.S. ambassador and State Department officials should speak out in some of the ways that Brian had referred to in defense of defenders and visit the office of defenders and other visible signs of support. The U.S. Government should use the leverage it has at hand, both the Labor Action Plan and the human rights conditions in law, to encourage the Colombian government to protect defenders and ensure justice for the attacks against them.

Despite all the risks, we do think there has been a climate in Colombia where there could be advances in ensuring defenders carry out their important work. The Santos administration is more open than its predecessor, and Colombian human rights groups have awakened a far greater acknowledgment in their society with an organized campaign about the right to defend rights.

The United States must do more to support human rights defenders in Colombia. That nation can't afford to lose one more person who devotes his or her life to the defense of others.

[The statement of Ms. Haugaard follows:]

Thank you for the opportunity to address the Tom Lantos Human Rights Commission and for hosting this important hearing on the status of human rights defenders worldwide. I am the director of the Latin America Working Group, and I have been working on human rights issues regarding Colombia for the last fourteen years.

Daniel Aguirre was walking home with his wife in the town of Florida, Valle del Cauca on April 27, 2012 when he was shot dead. He was Secretary General of SINALCORTEROS union and a leading figure in the struggle for the rights of sugar-cane workers. Aguirre is the sixth Colombian trade unionist killed this year, the second killed or disappeared in the weeks since President Obama determined that the Labor Action Plan was sufficiently fulfilled to advance the Free Trade Agreement, and the 29<sup>th</sup> trade unionist killed since the Colombian and U.S. governments signed the Labor Action Plan on April 7, 2011.

Manuel Antonio Ruiz received a message on his cellphone on March 23, 2012, that he had won a prize; as he went with his 15-year-old son to collect it, he and his son Samir were disappeared, presumably by paramilitary forces. Their bodies were found a few days later with signs of torture. Manuel Ruiz was a leader of the land restitution process for Curvaradó-Jiguamiandó ordered by Colombia's Constitutional Court, helping to implement the land census. He had asked the government three times for protection, and had only received the cellphone.

José Humberto Torres, a lawyer with the Committee to Protect Political Prisoners who has denounced links between Caribbean coast politicians and paramilitary mafias, learned this March that a group of paramilitaries and politicians had established a 200 million-peso bounty for his murder. Torres represents the major networks of Colombian human rights groups in the discussions with the government over protection.

Norma Irene Pérez, a human rights leader and mother of four from the Macarena community in Meta department on July 22, 2010, participated in and helped to organize a hearing on forced disappearances hosted by Colombia's equivalent of the Tom Lantos Human Rights Commission. On August 7<sup>th</sup>, Norma Pérez was disappeared, and her body was found five days later.

Former cabinet minister and director of the radio program "Hour of Truth," Fernando Londoño, was wounded on May 15<sup>th</sup>, 2012, in a car bomb explosion in Bogotá that killed two of his bodyguards and wounded at least 25 people. While authorities had not yet determined who was responsible at the time of writing this testimony, he had been threatened by the FARC.

Ana Fabricia Córdoba, an Afro-Colombian leader of internally displaced persons and member of the women's organization Ruta Pacífica de las Mujeres, was killed by gunshot on June 7, 2011. She was pursuing justice for the death of her son, which she alleged was at the hands of members of the police. She had asked and failed to receive protection. Her high-profile chronicle of a death foretold led Colombian human rights groups to temporarily suspend dialogue on protection issues with the Colombian government.

Forty-nine human rights defenders were killed in 2011 and 6 were forcibly disappeared, according to the database maintained by Colombian human rights groups, Somos Defensores or We are Defenders. Thirty

trade unionists were killed that year according to the Escuela Nacional Sindical; only two of those trade unionists are included in the Somos Defensores database, so 77 human rights defenders and trade unionists were killed in 2011. Somos Defensores registered 239 attacks against defenders in 2011 compared to 174 in 2010, a serious escalation; assassinations increased from 32 to 49, and the practice of forced disappearance reappeared.<sup>3</sup> The Somos Defensores database includes assassinations, physical attacks, sexual violence, forced disappearances, and threats, as well as arbitrary detention and arbitrary use of the legal system against defenders.

The situation in 2012 continues to be grim. In the first three months of the year, 13 human rights defenders were assassinated, according to Somos Defensores, with 64 acts of aggression during that same period.

In December 2011, an international verification mission on the situation of defenders composed of 40 human rights experts and legislators, in which I participated, visited eight regions of the country to evaluate the risks faced by defenders and the government's response. We met with hundreds of defenders as well as national, regional and local government authorities. What we found was that defenders of all descriptions faced death threats. We were disturbed by the large number of reports of break-ins of human rights groups' offices, and noted that defenders continued to complain of surveillance. A number of well-known human rights defenders were behind bars on charges believed to be specious. Defenders described actions by the government that put defenders and communities at risk, such as the army and police distributing flyers or broadcasting radio ads that called on entire communities or specific community leaders to "demobilize," thus labeling them as insurgents. We found a marked difference between an improved, though still flawed, attitude at the national level and the dismissive attitude of many regional officials regarding the risks faced by defenders.<sup>4</sup>

**Who is attacked and threatened, and why?** Those attacked were organizing for their own, and their communities', rights. As the International Verification Mission, we heard about the following kinds of situations in which defenders were threatened and attacked: community members, often Afro-Colombian or indigenous, who were protesting the use of a community's land for mining, palm plantations, oil exploration or military use; leaders of displaced communities attempting to regain land; family members or community members seeking justice for the death or disappearance of a loved one; involvement in union organizing; participation in student protests, victims' rights rallies or environmental activism; LGBT persons defending their rights; involvement in women's rights groups; and human rights lawyers pursuing justice in sensitive cases. Faith leaders, including pastors and priests, are threatened and attacked, often for their attempts to advocate for communities. Government officials involved in the protection of human rights, especially local representatives of the Ombudsman's office, are also at risk.

In the last year, 19 indigenous leaders were assassinated. Attacks against women's groups increased in 2011. Women defenders face the use of sexual violence as a method of intimidation and retaliation for their work, and they frequently receive threats directed at their children and other family members. Threats against journalists increased in 2011, according to the office of the UN High Commissioner for Human Rights. Colombia continues to lead the world in murders of trade unionists.

Threats and attacks against defenders are aimed not just at the individual, but at derailing a collective struggle for justice that affects powerful interests, whether those interests are mining or palm companies that want to acquire land, guerrilla or paramilitary groups that want to clear territory to traffic drugs and guns, paramilitary successor groups that want to hold on to land obtained by violence, army members covering up their crimes, or business interests that want to undercut union organizing.

Land rights leaders are in the eye of the storm. At least 25 land rights leaders have been killed since the Santos Administration took office in August 2010. Many of these leaders had requested, and failed to receive, protection measures from the Colombian government.

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<sup>3</sup>Somos Defensores, *Annual Report 2011*, Information System on Attacks against Human Rights Defenders, [www.somosdefensores.org](http://www.somosdefensores.org).

<sup>4</sup>"Preliminary Report, International Verification Mission on the Situation of Human Rights Defenders in Colombia," December 2011, <http://www.protectionline.org/Preliminary-Report-International.html>.

Even the most prominent cases of land returns are not receiving adequate protection from the government. The murder of Manuel Ruiz struck a blow to hopes for safe land return, as the Curvaradó-Jiguamiandó area is perhaps the most closely watched and carefully accompanied land case in the country, and the government has repeatedly promised to protect the communities.

**Who is behind the attacks?** As they are rarely successfully investigated and prosecuted, there is no judicial answer, but there are evident patterns. Paramilitary successor groups, such as the Aguilas Negras (Black Eagles), Urabeños, and Rastrojos, are behind many of the threats and attacks directed against human rights defenders. FARC and other guerrilla groups are also responsible for threats against and murders and disappearances of defenders. Members of the army and police, as well as other government agents, are responsible for acts of aggression ranging from illegal surveillance, arbitrary detention, and false imprisonment, to threats, forced disappearance, and murder. Members of the army have threatened family members, witnesses and lawyers in a number of extrajudicial execution cases.

In 2011, according to Somos Defensores, of the 49 murders, 13 were presumed to be by paramilitary groups, 5 by the FARC, 2 by government forces, and 28 were unknown. Of the 239 aggressions in total, 50 percent were presumed to be by paramilitaries, 17 percent by government forces, 4 percent by the FARC, and 29 percent were unknown. In the first three months of 2012, there was a marked increase in the number of acts of aggression attributed to the FARC guerrillas, with 15 of the 64 cases attributed to the FARC, 12 to the paramilitaries, 4 to government forces, and 33 cases unknown.

Beyond the horrifying numbers, it is important to understand what living with this constant danger means for human rights defenders. They never complain, but sometimes you catch a glimpse of it. One defender told me that he can never again take a walk in the city; another said he and his wife can never go to the movies, as it is not safe to be in a theater. I was sitting on the porch of a restaurant in Sincelejo when we noticed our jovial friend looked pale; he had his back to the street, and he couldn't bear to sit like that, so we moved around so he could face out; he had to be able to see what was going on around him at every moment. Defenders and journalists who were the subject of illegal surveillance by their own government found it profoundly unnerving. Far worse than these kinds of restrictions of ordinary life is the fear that defenders have for their children, because all too often, their children, from elementary school age to adults, are targeted for brutal threats and sometimes attacks. Many defenders and their families are forced into exile for periods of time, but feeling disconnected from their work and their lives, many return to Colombia.

### **Still Far to Go: The Government's Response**

Under the Uribe Administration, the Colombian government directly contributed to the risks faced by defenders and journalists by public attacks by the President and other top officials that called them terrorists or guerrillas. President Juan Manuel Santos signaled a departure from this policy from the start of his administration. He promised to “*desarmar la palabra*” or “disarm words” and to ensure that his administration never publicly attacked defenders. He shepherded through Congress a landmark bill to provide reparations and return land to some of those displaced by violence. The Santos Administration also reopened dialogue with defenders, in the National Guarantees Roundtable, on restructuring the protection program. Finally, the Santos Administration has put in place a number of regulatory changes aimed at improving the climate for human rights defenders.

But despite this more positive public stance, the situation of human rights defenders continues to deteriorate. “While in Bogotá regulations were discussed and put in place, the regions bleed because of the assassinations, threats, arbitrary detentions, attacks and disappearances,” says Somos Defensores.<sup>5</sup> The improved dialogue and issuance of new directives have not yet resulted in tangible improvement in protection or justice for human rights defenders—and tangible improvements are the standard by which an administration should be measured. Moreover, as described below, the Santos Administration is supporting constitutional and legislative changes that would increase impunity for human rights crimes, including against defenders.

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<sup>5</sup>Somos Defensores, *Annual Report 2011*, Information System on Attacks against Human Rights Defenders, [www.somosdefensores.org](http://www.somosdefensores.org), p. 4.

The following recommendations for the Colombian government reflect recommendations of the United Nations, the Inter-American Commission on Human Rights and the International Verification Mission and are based on the criteria established by Colombian human rights defenders in their National and International Campaign for the Right to Defend Human Rights.<sup>6</sup>

### **Recommendation 1: Effectively investigate and prosecute attacks and threats against defenders**

Human rights defenders are emphatic on this point: the single most effective way to protect them is to effectively investigate and prosecute the material and intellectual authors of the threats and attacks against them. The vast majority of attacks against defenders remain in impunity. One persistent problem has been that threats and attacks are not investigated as patterns, but as isolated incidents, and the potential relation to the defender's work is often ignored.

The Santos Administration has made some efforts to address this. The Attorney General's office issued directive 012 of 2010, directing government authorities to investigate attacks against human rights defenders and encouraging examination of patterns. Additional judicial police inspectors were assigned to cases involving murders of unionists, in accordance with the Labor Action Plan.

Yet justice for human rights defenders is still a distant prospect. The Office of the UN High Commissioner on Human Rights in Colombia notes in its 2011 report that it “is concerned about certain investigations led by the Attorney General's Office involving human rights defenders. Some of its prosecutors act quickly on the basis of what seems to be unsubstantiated information in cases against human rights defenders, while others do not properly pursue cases in which defenders are the victims.”<sup>7</sup> The International Service for Human Rights notes that of 192 cases presented by nongovernmental networks to the National Guarantees Roundtable, only six convictions had been issued at the time of its report.<sup>8</sup>

The International Verification Mission observed “that the vast majority of attacks against human rights defenders, including such serious crimes as murders and forced disappearances, remain unpunished.”<sup>9</sup> We heard dismissive comments from regional authorities regarding threats against defenders, including suggestions from officials that defenders were threatening themselves in order to receive trips abroad. We received a number of complaints from defenders that information they provided to local prosecutors was leaked to paramilitary successor groups, which then used that information to further intimidate activists. Finally, the mission heard that sometimes prosecutors refused to receive new cases, on the grounds that they were overwhelmed, or required that victims' family members investigate evidence themselves, particularly in forced disappearance cases.

Threats against human rights defenders are virtually never investigated. This is so even where defenders have supplied extensive evidence regarding the source of the threats. There are a number of reasons given for this, ranging from the lower sentences for threats making it less rewarding for prosecutors, to the fact that “murder is worse,” to complaints that email threats are difficult to track. But there are no valid excuses for a complete absence of effective investigation of threats, when threats so often turn into violence, and when prosecuting those who carry out threats could help to dismantle criminal networks outside and within the state, and send an unequivocal message that the government stands behind threatened defenders.

Moreover, the Santos Administration has been promoting constitutional and legislative changes that would rollback efforts to ensure justice for human rights crimes, including against defenders, involving members of the military. While the Santos Administration fortunately withdrew its support from a controversial

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<sup>6</sup>Declaration, National and International Campaign for the Right to Defend Human Rights, <http://www.colombiadenefenders.org/downloads/Declaration.pdf>

<sup>7</sup>United Nations High Commissioner on Human Rights, *Report of the United Nations High Commissioner on Human Rights on the Situation of Human Rights in Colombia, 2011*, January 31, 2012, p. 5, <http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/report2011.pdf>

<sup>8</sup>International Service for Human Rights, “Human Rights Defenders in Colombia: How Is the Government Protecting their Rights?” December 2011.

<sup>9</sup>“Preliminary Report, International Verification Mission on the Situation of Human Rights Defenders in Colombia,” December 2011, <http://www.protectionline.org/Preliminary-Report-International.ht>

article that would have returned human rights crimes allegedly committed by members of the military to military courts, a new constitutional reform proposal to overhaul the military justice system is still advancing in the Congress with Santos Administration support which could have much the same impact. It lays out a sharply limited set of crimes that could never go to military jurisdiction, namely crimes against humanity and genocide, but then states that other crimes to be excluded would be defined by Congress subsequently. It is by no means certain that the crimes of rape, extrajudicial execution, torture or forced disappearance would be spelled out in this subsequent list.

A separate bill, known as the legal framework for peace, would allow Congress to establish criteria regarding crimes that would be excluded from prosecution, permitting the Attorney General's office to limit prosecutions to those termed “most responsible” for grave human rights violations.<sup>10</sup> It also would allow the judiciary to suspend existing sentences for crimes committed by actors in the armed conflict. This would mean that the judiciary could refrain from pursuing justice in cases of grave human rights violations committed by military or other state actors, as well as by illegal armed actors. Together, these provisions could unravel reforms instituted to address the “false positives” scandal in which more than 3,000 civilians were allegedly killed by soldiers, often to up their body counts and obtain incentives. Some of these “false positive” victims were community leaders.

## **Recommendation 2: Recognize the existence of paramilitary successor groups and act decisively to dismantle them**

A substantial part of the threats and attacks are coming from paramilitary successor groups.<sup>11</sup> The failure of the government to act effectively to dismantle these groups is a major obstacle to creating a safe climate for defenders—and for a large part of the population who are subject to their violent and abusive presence. While the Santos Administration has publicly acknowledged the existence of these groups, to a greater degree than the previous administration, and has conducted targeted efforts to dismantle them, it needs to do far more to end this pervasive danger. It is estimated that paramilitary successor groups are present in 406 municipalities in 31 of Colombia's 32 departments and have consolidated their presence in 271 municipalities.<sup>12</sup>

The Inter-American Commission for Human Rights noted that, “a great many of the threats and acts of intimidation and harassment against human rights defenders in Colombia reportedly come from criminal groups, particularly the self-described *Aguilas Negras*. As the Commission was told, when they receive complaints from human rights defenders about acts presumably committed by this group, the authorities simply deny their existence and do not take action on the investigations; to the contrary, they proceed to initiate criminal proceedings against the complainants for ‘making false accusations.’”<sup>13</sup> Similarly, the International Verification Mission found it profoundly concerning that government authorities denied the existence of illegal groups, particularly paramilitary or successor groups. This meant that regional authorities then discounted the threats, attacks against human rights defenders or break-ins of their offices

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<sup>10</sup>Human Rights Watch, “Colombia: Correct Serious Flaws in Transitional Justice Bill,” May 1, 2012, <http://www.hrw.org/news/2012/05/01/colombia-correct-serious-flaws-transitional-justice-bill>

<sup>11</sup>The wording of many threats signed by paramilitary successor groups show that they are issued in defense, however perverse, of the government. A leader of the human rights group CREDHOS was held up by a man with a gun who said: “Stop denigrating the army and police forces, we already have a \*\*\* guerrilla from CREDHOS jailed and if it is necessary to get rid of the rest, we will do so to shut you up.” Threats issued in May 2012 against 25 organizations and 19 defenders read, “We won't let you damage the policies of our president by making demands about the victims' and land law, you will be declared a military target, no matter how much protection you have.” Email threats signed by the Capital Block of the Black Eagles declared as military targets “those who are stirring up communities so that they reclaim their supposed rights, reclaim lands” as well as those who “oppose the use of military jurisdiction [for armed forces members accused of human rights violations], very merited for our nation's heroes.”

<sup>12</sup> Indepaz, *Seventh Report on Presence of Narcoparamilitary Groups in 2011*, <http://www.indepaz.org.co/wp-content/uploads/2012/02/S%C3%A9ptimo-informe-versi%C3%B3n-ingles-de-Narcoparamilitar-Grupos-en-2011.pdf>

<sup>13</sup>Inter-American Commission on Human Rights, “Second Report on the Situation of Human Rights Defenders in the Americas,” 31 December 2011, pp. 36-7, <http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>

as common crimes, or as exaggerated or invented. It also meant that regional authorities did not mobilize resources and staff to dismantle these structures, and did not respond when communities and defenders called for protection.<sup>14</sup>

The Colombian government should deliver the message, so that military and civilian government officials, regional authorities and society at large understand, that the paramilitary successor group expansion is a principal threat to Colombian democracy and security. It should act more decisively to dismantle paramilitary networks, and investigate and prosecute their financial and political backers. It should suspend, investigate and prosecute security force members who have been found to collaborate with or tolerate their abuses, making a particular effort to do so in areas with high paramilitary successor group presence.

**Recommendation 3: Create a climate that supports the legitimacy of human rights work by positive government pronouncements and by ending the stigmatization of human rights defenders by public servants**

The Santos Administration started off in the right direction with its promise to “disarm the word.” Administration officials such as former Minister of the Interior German Vargas Lleras as well as the President himself made a number of strong statements in defense of human rights and those who defend them. This new direction caused human rights groups to breathe a collective sigh of relief and seemed to indicate a commitment to human rights on the part of the new government.

However, this promise was undercut in 2011 by statements by President Santos, the Attorney General and other officials, regarding the Mapiripán massacre, the Las Pavas displacement, and other cases. When the family member of a supposed victim of the Mapiripán massacre retracted her testimony, President Santos declared that “it confirmed what many people were saying about dark interests, economic interests, who use that system, that fool it in order to take economic advantage of the public resources of the state.” The Inter-American Commission on Human Rights “considers that statements such as these, made before conducting proper investigations, can have a negative impact on the work of Colombian human rights organizations, which over these last decades have carried out their work of defending human rights in situations of serious risk.”<sup>15</sup> The government, of course, has a right to call for accurate testimony. However, the public and sweeping condemnations by the President and other high-level officials not just about one supposed false victim but about human rights groups and victims in general unleashed an ugly wave of sentiment directed against defenders and victims that reverberates today.

Current and retired members of the security forces continue to complain publicly about a “judicial war” by judicial authorities, victims and human rights groups against the security forces, as if the act of denouncing abuses and prosecuting cases against them for grave human rights violations were evidence of support for insurgents.

Finally, the Santos Administration fails to speak out when human rights defenders are killed and threatened. As a columnist in *El Espectador* wrote about the murder of trade union activist Daniel Aguirre, “Why did President Santos and [Labor] Minister Pardo remain mute before such a terrible death?” noting that the President had just spoken out about the FARC guerrillas' capture of a French journalist. “Silence has terrible consequences when impunity is systematic: it perpetuates it, it reinforces it, and it even legitimizes it.”

It is not too late for the Santos Administration to retake the high road, firmly declare its support for the legitimate work of human rights defenders, speak out against brutal acts against defenders by all actors, and act to sanction officials who denigrate defenders and place them at greater risk.

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<sup>14</sup>Draft final report, *International Verification Mission on the Situation of Human Rights Defenders in Colombia*, to be published.

<sup>15</sup>Inter-American Commission on Human Rights, “Second Report on the Situation of Human Rights Defenders in the Americas,” 31 December 2011, p. 47, <http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>

**Recommendation 4: Improve the protection of human rights defenders, in full consultation with defenders, and in particular, improve protection for land rights activists and communities**

Under both the Uribe and Santos Administrations, Colombia's government-run, and initially U.S.-funded, protection program has saved lives. Despite problems, there are lessons from the protection program in Colombia that are well worth considering in designing programs in other countries where defenders are at grave risk.

The Santos Administration has worked to improve protection. It reopened a dialogue with defenders begun under the Uribe Administration, the *Mesa Nacional de Garantías* or the National Guarantees Roundtable. The Ministry of the Interior reorganized the protection programs for human rights defenders, trade unionists and journalists. The decree governing this reorganized protection program was created with input from defenders, and one positive element of the reorganization is that it attempts to decentralize the program so that defenders in more remote areas receive a more effective and rapid response. The Ministry of Interior issued a resolution broadening the scope of the kinds of labor activists who could receive protection.

Despite this improved dialogue and changes in regulations, enormous gaps in actual protection remain. Risk assessments are often performed in a slow, bureaucratic manner, and once measures are granted, they are sometimes only slowly or partially implemented. Measures often do not take into account the specific needs of women, indigenous people, Afro-Colombians, and the LGBT population. Collective protection measures have also not yet been implemented to address the threats especially affecting land restitution processes. The measures agreed upon in regional meetings of the risk evaluation committees (CERREM) are not fully implemented. The National Guarantees Roundtable has not met this year and needs to be reactivated, as it is an important mechanism.

It is vitally important that the government consult closely with communities to develop effective protection plans for communities seeking to reclaim, return to or remain on land affected by violence. Without serious attention to protection and to dismantling the paramilitaries and other illegal groups behind the violence, the government will have no chance of safely implementing the Victims Law. Displaced communities will face a serious risk of returning only to meet their deaths or be displaced again.

Even in cases such as Curvaradó and Jiguamiandó river basins where the Colombian government is attempting to provide protection and national and international nongovernmental groups are providing accompaniment, protection is inadequate and communities and leaders remain at risk. Community leaders continue to denounce death threats and killings by paramilitary successor groups which operate in the region, often in close proximity to army and police checkpoints. Community members who have participated in meetings with the government regarding the census and land restitution have been particularly targeted, as in the case of Manuel Ruiz.

In less well monitored processes, communities live in fear. Twelve communities that make up the Regional Working Group for the Defense of Land and Territory in Córdoba, a group of communities that have returned to land from which they were displaced or that are seeking to avoid displacement, assert that all of their leaders are in situations of grave risk; one has been killed and two forcibly displaced. The same illegal groups that displaced them in the past continue to threaten them, and all of their efforts to use government mechanisms to protect themselves have produced few results—regional judicial authorities that do not investigate threats, an ombudsman's resolution that is not enforced, protection that does not arrive.<sup>16</sup>

Our Colombian civil society partners are emphatic in insisting that protection is not created by a primarily military presence that indeed often places civilian populations at greater risk. Protection plans may identify a mix of needs and solutions, including investigations into threats and attacks, greater presence of a local ombudsman, purging local army units of members who collaborate with paramilitary successor groups, and removing a corrupt local official. It may involve a fixed bridge or road, secure communications, and

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<sup>16</sup>Lutheran World Relief and Latin America Working Group Education Fund, *No Relief in Sight: Land and Violence on the Caribbean Coast of Colombia*, May 2011, <http://www.lawg.org/storage/documents/Colombia/no%20relief%20in%20sight.pdf>

electrification, so that communities are less isolated. It could involve army patrolling around the perimeters of the community. Investment in rural development projects can help create the social cohesion that allows communities to withstand pressure to abandon land. Finally, protection measures often must involve properly legalizing land titles, as a lack of clarity invites violence. But the right mix of measures must be determined in consultation with communities.<sup>17</sup>

**Recommendation 5: End all illegal surveillance of human rights defenders and ensure that it does not reemerge.**

The Departamento Administrativo de Seguridad (DAS), an intelligence agency under the presidency, during the Uribe Administration carried out widespread illegal surveillance of Colombian human rights defenders, trade unionists, journalists, members of the Supreme Court, opposition politicians, and members of international human rights agencies and organizations. The DAS's illegal activities went beyond surveillance to actually issuing threats, playing dirty tricks on human rights groups and journalists, providing lists of trade unionists to be assassinated to paramilitary organizations, and other criminal activities.

The Santos Administration shuttered the DAS intelligence agency, and Colombia's judicial system is investigating and prosecuting DAS officials; one DAS director, for example, has received a 25-year-sentence. We applaud these steps.

However, there are a number of ongoing concerns. First, reports from human rights defenders and journalists that illegal surveillance continues have been registered by the UN High Commissioner on Human Rights office in Colombia, the International Service for Human Rights, and other human rights agencies. This appears to include surveillance by military and police intelligence units. The International Verification Mission heard numerous reports of open surveillance, such as photos and videos taken by police, military and unknown individuals of victims' association events, rallies, meetings, and offices. Defenders reported that they believed their phones were still tapped. Break-ins of human rights groups' offices were reported in which human rights information and computers were stolen. Recently, the Fundación Nidia Erika Bautista, which works with family members of the disappeared, denounced surveillance by men in cars without license plates outside its Bogotá office.

Second, former DAS members have been reassigned to other agencies, including migration, the Attorney General's office, and most disturbingly, some 600 former DAS members have been reassigned to the protection unit. While the government claims these members have been thoroughly screened, defenders remain understandably concerned about relying on DAS agents for their protection. A journalist who was brutally threatened by the DAS asserts that one of the agents involved in the acts against her is now employed by the protection unit.<sup>18</sup>

Third, there are concerns about the status of information related to human rights groups persisting in intelligence files or being leaked. It has been a long-standing request of Colombian human rights groups and international human rights agencies that human rights activists be permitted access to their DAS files and that false information regarding defenders be scrubbed from intelligence files. Bad information that continues to be recycled has been the source of threats against and specious prosecutions of defenders. The Inter-American Commission on Human Rights has “repeatedly expressed its concern over the lack of mechanisms by which individuals can gain access to intelligence information kept on them and thereby can request that it be corrected, updated, or if applicable, removed from the intelligence files.” The IACHR is also “concerned because in September 2011 it was publicly made known that in the transition process from the DAS, some operatives who were facing dismissal decided to sell or leak information in their possession

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<sup>17</sup>See this November 2011 [letter](http://www.lawg.org/storage/documents/Annual%20Reports/Clinton_Land_Rights_Letter_Nov_2011_english.pdf) to Secretary Clinton from U.S. nongovernmental organizations describing the kind of protection that should be provided to returning communities and their leaders, [http://www.lawg.org/storage/documents/Annual%20Reports/Clinton\\_Land\\_Rights\\_Letter\\_Nov\\_2011\\_english.pdf](http://www.lawg.org/storage/documents/Annual%20Reports/Clinton_Land_Rights_Letter_Nov_2011_english.pdf)

<sup>18</sup>“El ratón cuidando el queso?” *Semana.com*, April 27, 2012, <http://www.semana.com/confidenciales-semanacom/raton-cuidando-del-queso/176250-3.aspx>

to individuals in illegal groups or other interested groups”<sup>19</sup> which can “increase the situation of risk to the life and safety of individuals whose data is found in the files.”<sup>20</sup>

The Colombian government needs to ensure that all illegal surveillance of human rights defenders by government agencies ends; must consult with human rights defenders regarding the screening of protection agents; and ensure that there is a workable process for human rights defenders to examine and request removal of specious information from intelligence files.

### **Recommendation 6: End specious prosecutions of human rights defenders**

A number of well-known human rights defenders remain in jail or have charges still pending against them, including Winston Gallego Pamplona, Yira Bolaños, Principe Gabriel González, and David Ravelo Crespo. In many of these cases, the primary evidence against them was uncorroborated testimony from military intelligence files or from demobilized members of illegal groups, who are often rewarded or pressured for their testimony.

The Attorney General's office has issued a directive that instructs prosecutors not to rely on such uncorroborated testimony, which is a positive step. However, this directive has yet to have sufficient impact.

To mention just one case, Carmelo Agámez of the Movement of Victims of State Crimes had risked his life denouncing paramilitary violence in his community of San Onofre, Sucre. Yet he was jailed on suspicion of collaborating with the paramilitary groups he had denounced. He served nearly three years in jail without his trial ever concluding, and was finally released as he had served the maximum sentence he could have received for the charges against him.

### **U.S. Government Response: Positive on the Cases, Inadequate on the Policy**

On a case level, the response of the U.S. government is often laudable. U.S. Embassy officials promptly follow up on specific cases with the Colombian authorities and inquire about protection measures. The doors to the State Department, under this administration and the previous one, are open for us and for our Colombian human rights partners. We are very grateful to our diplomats for the many times they have acted in defense of individual human rights defenders.

We are grateful to the members of the U.S. Congress for raising the threats and attacks against human rights defenders continually and strongly with the Colombian government and the State Department. Your actions have saved lives.

Yet the U.S. government should act far more decisively to help create the climate in which defenders can carry out their work. The U.S. ambassador and visiting State Department officials should regularly speak out in defense of defenders, issue statements, and visit the offices of defenders. The U.S. government should use the leverage it has at hand, including use of the mechanisms of the human rights conditions and the Labor Action Plan.

Most disappointing recently was President Obama's decision to determine the Labor Action Plan sufficiently fulfilled to allow the Free Trade Agreement to go into force on May 15<sup>th</sup>, despite clear evidence presented by unions and human rights groups that insufficient progress had been made in meeting the Labor Action Plan requirements and that the situation of anti-union violence continued to be alarming. We and our Colombian human rights partners are often frankly disheartened by the glowing statements of progress by U.S. officials when we see such a dire situation on the ground.

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<sup>19</sup>Inter-American Commission on Human Rights, “Second Report on the Situation of Human Rights Defenders in the Americas,” 31 December 2011, p. 27, <http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>

<sup>20</sup>Ibid, p. 85.

At this moment, the U.S. government could help support human rights defenders in Colombia by taking the following actions. It would be most helpful if members of the Tom Lantos Human Rights Commission could encourage policy along these lines.

1. **Insist on full compliance with the Labor Action Plan and keep a focus on anti-union violence.** Since President Obama announced on April 15<sup>th</sup> that the Free Trade Agreement would go into effect in one month, there appears to be a wave of retaliation against trade unionists who were active in opposing the agreement and involved in organizing in the priority sectors for the Labor Action Plan, including sugar cane, palm and port workers. In the last three weeks, sugar cane cutters trade union leader Daniel Aguirre was murdered, and trade unionists in the port, palm and sugar cane sectors have received death threats.<sup>21</sup>

The U.S. government has a responsibility to stand by these unions and insist that trade unionists are protected and that threats and violence against them is promptly, effectively investigated and prosecuted. This should not be just the responsibility of the Labor Department. We urge the White House to remain involved, and the State Department to work closely with the Labor Department to press the Colombian government for these measures, using every means available, including clear, high-level public pronouncements. We urge members of Congress to follow this closely and issue regular statements to protect the safety of trade unionists.

2. **Urge that there be no backwards steps on justice for members of the military accused of grave human rights violations.** As mentioned earlier, a number of proposals are before the Colombian Congress that would increase military impunity for grave human rights violations, including by returning human rights cases to military, not civilian, courts. The State Department and Congress have a clear tool to accomplish this, the human rights conditions in foreign operations law. These conditions must be maintained and actively used. While we appreciate the actions the State Department has taken so far regarding civilian jurisdiction, as stated earlier, we remain seriously concerned about proposals still before the Colombian Congress that could lead to impunity, including for members of the military accused of grave human rights crimes.
3. **Emphasize the importance of dismantling paramilitary successor groups, prosecuting their financial backers, and suspending and prosecuting security force members and politicians who collaborate with them.** It was concerning when Chairman of the Joint Chiefs of Staff and the Secretary of Defense separately visited Colombia and appeared to emphasize almost exclusively U.S. support for Colombia's campaign against the FARC guerrillas. This should have been accompanied by a clear message urging more decisive action against the paramilitary successor groups, who are responsible for much of the violence against human rights defenders, trade unionists and communities attempting to return to or remain on their land.
4. **Insist upon an end to illegal surveillance of human rights defenders and accountability for the crimes of the DAS.** This is a particularly important action for the United States, as the U.S. government supplied assistance to the DAS and continues to provide support for intelligence activities via other agencies.
5. **Work with the Colombian government to develop real protection for communities returning**

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<sup>21</sup>John Jairo Castro of the Buenaventura Port Workers received on May 12 a text message that said: "Second warning to trade union leadership and to the loudmouths that we will send you to sleep early outside of the region... We have the leader of trade unions in Cali, Magdalena Medio, Barrancabermeja and Cesar in mind... We have located your family members, located areas and points where (we will) make you obey." The President and Vice President of the SINTRAEMCALI union, the Cali municipal workers' union, active in the FTA debate, received on April 21 invitations to their own funeral along with two roses, two bullets, and a prayer book. The threat from the Black Eagles warned, "Don't think that your bodyguards will be able to save you. They will have to watch over you in the cemetery. We've also noticed that you have been visiting the Attorney General's Office often, but that won't last long." Wilson Ferrer, President of CUT trade union federation's Santander branch, received a telephone threat on April 18<sup>th</sup> related to his involvement with the palm workers: "Stop getting involved with the palm workers. We don't want to see you assisting them anymore. We don't want to see you in the region. We're warning you..."

**to their land.** In particular, urge the Colombian government to consult closely with communities in developing and implementing the protection plans that will actually keep them safe. Regarding broader protection programs, urge the Colombian government to continue the National Guarantees Roundtable, fulfill its recommendations, and consult closely with human rights defenders in improving and implementing protection.

6. **Emphasize the importance of successfully investigating and prosecuting violence and threats against human rights defenders.** It is important to keep pressing on a set of specific cases for results. There is no better way to protect defenders than to ensure justice for violence against them. It is also essential that U.S. diplomacy emphasize implementation of the Attorney General's directive about prosecutions of defenders, so that defenders do not continue to be jailed on false charges.

Despite all of the risks, there is a real opportunity to create a climate now in Colombia in which defenders can carry out their important work. The Santos Administration has shown itself to be considerably more open on this score than its predecessor. Colombian human rights organizations, through an organized campaign on the right to defend rights, have awakened a greater acknowledgment in Colombian media and society about the role human rights defenders play and the devastating risks they face in their country. The United States must do much more to support human rights defenders in Colombia. That nation cannot afford to lose one more person who devotes his or her life to the defense of others.

Mr. McGOVERN: Thank you. Thank you. Thank you all.

Mr. Dooley, in your testimony, you outlined a set of guidelines for U.S. Government engagement with human rights defenders. Of these guidelines, which of them do you think would do the most help to help human rights defenders around the world?

And while you are answering that, I am also -- this is kind of -- everybody should be thinking about this when I tell you -- what can the U.S. Congress do to further assist in protecting human rights defenders?

Mr. DOOLEY: Thanks very much.

I don't think that guidelines need to be particularly complicated. In fact, the less complicated the better. I think just a few brief points really laying out with some clarity what human rights defenders can expect, like they might be invited into the embassy for official functions or for private meetings or the embassy officials might go and see them in their workplaces or their homes.

I was speaking this morning actually to the daughter of Mahdi Abu Deeb. He is one of those who was sentenced by the military court in Bahrain to 10 years in prison. He is the leader of the Bahrain Teachers Association. Himself and his Vice President Jalila al-Salman were arrested, tortured, put through an unfair military trial and both sentenced by the military court. And his daughter Maryam and I were talking today, and I said to her, have you ever been visited by anybody from the U.S. embassy? Have they ever called you? And she said, no. And I said, why not? And she said, well, we didn't know we could ask.

And I think something just laying out very simply what human rights activists

and their families may be able to expect in terms of, as the ambassador said, visibility through the press, if that is what they want, invites to the embassy, if that is what they want, a point of contact in the embassy for them to discuss their problems. It is not like the embassy is going to be able to solve all of their problems, but I think some parameters there about what is possible and what is impossible, too, would be very useful.

In terms of what the U.S. Congress can do to protect and promote the work of human rights defenders, that is a much larger question. I think, again, a degree of clarity around what the U.S. is doing and consistency from embassy to embassy -- I think there are more than 250 embassies and consulates -- would help. And I think keep impressing the administration to make human rights a core part of its foreign policy is very important.

Mr. McGOVERN: Thank you.

Mr. AKWEI: I would like to build on what Brian just said.

I think briefings like these are incredibly important, where there is an opportunity to challenge decisions and policies that the executive branch may be implementing. Because it sends an incredibly important message to the foreign governments of the country in question that civil society organizations are not the same thing as political or military threats and that dissent and criticism is healthy and actually beneficial to their country.

More importantly, briefings like this do provide some kind of profile to some of those defenders, which can add some security.

Ms. HAUGAARD: I think it is important to maintain human rights conditions attached to military assistance and am concerned that in the House Foreign Operations bill that those conditions have been weakened or removed for the Western Hemisphere this time around. And making sure that those conditions remain and that they are effectively used is a very important goal for Congress.

Mr. McGOVERN: I have always thought that, you know, if you had a government that is sincere about dealing with issues of impunity and ending corruption and supporting human rights defenders, that to the extent that the U.S. withholds assistance, mostly military assistance, that that could be used as a lever to say we have to clean this place up. You know, we have got to put people in jail who torture or kill or threaten human rights defenders. If not, we are not going to be kind of welcoming wholeheartedly to a relationship with the United States.

The reluctance to adhere to conditionality with regard to our so-called friends has been very frustrating. We are very good when it comes to people who we don't get along with so well, but when it comes to our friends it is very difficult.

We had a hearing on this bill -- I had the Magnitsky bill dealing with human rights in Russia and all the hand wringing that is going on about, oh, what are the Russian leaders going to say and the Russian leaders don't want it. Well, the Russian

leaders, all they have to do to not be impacted is to not kill or torture or be involved in gross human rights violations or corruption. I don't think that is a heavy lift for us to ask.

Ms. Haugaard, you talked about the U.S. and Colombia agreed on a 37-point plan to protect labor unionists as part of their free trade agreement. You mentioned that it has not been fulfilled. But to clarify a little bit more, to what extent is Colombia fulfilling its commitments to protect labor unionists?

Ms. HAUGAARD: Well, it has done some things. For example, it has expanded the kinds of labor leaders that can receive protection to some more lower level labor union leaders, and that is positive. On a protection level, there has been some progress.

Progress on cases is extraordinarily slow, and there still isn't sort of a visible commitment. It would have been very easy for the Colombian government just to talk about the murders of trade unionists that are occurring and to show concern. But that rarely, rarely happens.

And then there is just simply the results. People are still being killed, and protection is still slow to arrive.

So I would say there is some progress, and that to me it does show that there is a value in that Labor Action Plan. But it is not nearly enough.

Mr. McGOVERN: Mr. Akwei, in your view has the Ethiopian government used the anti-terrorism proclamation to silence or intimidate critics? How many civil society activists, journalists, and opposition party officials have been arrested on terrorism-related charges? Have any received a fair trial? To what extent is the Ethiopian judiciary free from political influence?

And the final kind of question is, how has the Ethiopian government responded to U.S. and European criticism of the Anti-Terrorism and the Charities and Societies Proclamation? Is there any evidence that the Ethiopian government takes international criticism of these laws seriously?

Mr. AKWEI: I think the first part of your question about the numbers -- the impact has been significant. We have tracked at least 100 journalists and opposition figures and human rights defenders who have either been harassed or arrested or been forced into exile based on the political clampdown that the government has instituted using this legislation.

The charities bill, which is almost a very sophisticated form of restriction, has basically gutted the ability to fund-raise and to operate.

So between the two of them you have not only individuals who are being restricted from doing any of their human rights work but also organizations in some cases providing legal services to women basically having to shut down. The

Ethiopian Women's Legal Defense Association used to provide legal free consultation to over 17,000 people. That is all gone just because of the Charities and Societies Act.

So there is a clear use of this law. There is a clear use of the courts, which, of course, are subject to the control of the ruling party and to give themselves a veneer of legality and of the rule of law being applied to it.

The government's response, unfortunately, has been fairly strident in terms of not being willing to take criticism and not really listening to, you know, the voices from the European countries or from the United States. And, unfortunately, they have been getting enough of a mixed message because of their role in fighting against the drought and other humanitarian issues, which is extremely important, that there seems to be a little bit of a reluctance to call them out in the manner that they need to be.

Further adding to this, of course, is the fact that Ethiopia is involved in U.S. security issues in Somalia, which has made the military assistance there even further off limits in terms of the kind of leveraging that you referred to.

So there has definitely got to be a change of course. Because, after all, this is a country that has lived through a repressive regime under Haile Mangistu in the 1980s. They have done this before; and if we do not break the cycle of repressive governments and crackdowns, history repeats itself.

Mr. McGOVERN: Mr. Dooley, how do you assess the impact of the Global Human Rights Defenders Fund? Given the tremendous need around the world and the limited available funding, how can the U.S. and partner countries make best use of this fund to support human rights defenders?

Mr. DOOLEY: It has been a very positive development, and it is one of the initiatives which we constantly hear from human rights defenders as credible and something which they appreciate. Resources are, of course, limited. But it is generally seen I think accepted by human rights activists that we are in contact with certainly as a positive thing.

If I could just refer to your previous question about the conditionality and why the U.S. fails sometimes to use its influence and leverage. I think in those cases, even where it does that, for instance, if we take the case of the waiver on the \$1.3 billion to the Egyptian military and the arms sales to Bahrain, I think what may have softened the pain slightly for the human rights communities in those countries would have been if the U.S. had discussed the implications of that with them. I know you asked –

Mr. McGOVERN: I asked the question, but I didn't press it too much, because I like all the people on the panel too much.

Mr. DOOLEY: You didn't get a very detailed answer.

But, you know, last week NGOs were briefed by the State Department,

journalists were briefed by the State Department about the reasons for the arms sale to Bahrain. To my knowledge, neither the embassy nor the State Department convened a gathering of human rights defenders in Bahrain to ask them how this might impact on the work and how they might mitigate the adverse effects.

I think simple things like that would go a long way to restoring both the trust between the human rights activists and the embassy but also to help human rights activists generally in their work when they try then to explain it to the potentially violent protesters what looks like sometimes inexplicable actions by the U.S.

Mr. McGOVERN: That goes back to the statement I kind of ended with. In the case of Bahrain, when you go forward with the arms sales, or in the case of Colombia, when you blanketly say you met the conditions and you get your trade agreement, when you do that, where is the pressure to urge these governments to continue to move forward?

I mean, I think we all know that dealing with impunity, even by the most well-intentioned leader in a country where that has not been the history, is a difficult thing to do. But, oftentimes, the pressure of a trade agreement possibly coming down the road or additional security assistance or what have you can be used as a lever by a well-intentioned leader or forces to push the envelope a little bit for the good of the country to have a healthy relationship with the United States.

But the Bahrain issue and the Colombia, I mean, they bothered me greatly because the situation to the best I can tell has not improved, and in fact in many cases it is getting worse. Ms. Haugaard talked about the number of labor activists who have been killed since in the last year. And you pick up a newspaper and almost every other day there is a new story about Bahrain, about the violence.

So when we move forward with kind of business as usual, I think it can send a signal that it is the same old, same old. That we are going to talk about human rights, it is important, but, you know, we are not going to do much more than that.

That is probably an unfair characteristic of what this administration is doing, because I know they are very much committed to doing the right thing. But I think the optics of some of the recent actions with regard to Bahrain in particular I think have been the wrong optics.

Mr. DOOLEY: Well, if I can just get in on the Bahrain example there, it isn't really that the administration is saying, okay, you have met the conditions, so now you can have the weapons. They seem to be saying, you haven't met the conditions, but you can have the weapons anyway. Which is even more worrying for the human rights community.

Mr. McGOVERN: Well, I guess they are not being dishonest, as sometimes happens when they waive conditionality or when previous administrations have falsely said that the countries have met the criteria.

Ms. Haugaard, a question about President Santos. As you pointed out, he has

taken some positive steps with regard human rights, but yet he is also still supporting harmful constitutional legislative changes. And, as you point out, violence against human rights defenders is still very much widespread. I have a lot more hope for him than I did for his predecessor, because I think he does want to see some of these issues resolved. But then there are other days that I am not quite sure.

What is your assessment of him as President and do you think he has the political will and the commitment to see many of these reforms forward and deal more forthrightly with issues like impunity?

Ms. HAUGAARD: Well, he started off in a good way and frankly surprised a lot of us with a better tone in the victims' law and so forth. But what really does concern me are the proposals on military justice and returning some of those cases -- many of those cases to military courts where they absolutely go nowhere, as you know. And he is clearly under a lot of pressure from members of the military, both active and retired, and it is also a popular position in the Colombian Congress. But he is a leader, and he can lead if he wants to.

So it really worries me that he has sort of gone so far backwards on this. I think the relationship with the United States is very important. I think that helped in encouraging him to step back from the last proposal on military justice. But the pressures keep coming both ways. So I think it is really important to keep focused on that.

I also think he can use his presidency to talk more about the human rights defenders who are under attack and to be more consistent about that.

Again, he started well, and then he got into the issue of this supposed false victim in the Mapiripan massacre and the Las Pavas displacement case. And in Colombia it is really not a problem of there are too many false victims being recognized. It is a problem of all of the victims who are not recognized and not supported. And his words there set off a really ugly backlash in Colombian society. Again, he stepped back from that, but we have to sort of keep watching. He really is a very, very capable man who could lead the country in exactly the right direction, but those days are sometimes there and sometimes not.

Mr. McGOVERN: Let me just conclude by asking everybody to -- as we move forward in the weeks and months ahead, we will do more hearings on the issue of human rights defenders. Clearly, these are important things to highlight. And to the extent you have suggestions of individual people that we can maybe bring here and testify about what is going on, whether it is Ethiopia or Bahrain or Colombia, we want to continue. We want to be a forum where human rights defenders can come and actually have a voice, which I think can also help provide them some protection and also help us make some of our colleagues a little more aware of what the situation is.

But I will close. If you want to add anything to any of the things that you heard today or any of the things that you think the Commission should have on record,

have at it?

Ms. HAUGAARD: I would just like to add, since you invited us to give suggestions of future hearings, that one issue that does concern us greatly is the situation of human rights defenders in Honduras as well. It is very severe right now. So, in some way, it would be good to have the attention on it.

Mr. McGOVERN: Maybe that is something we could work with the staff here. Thank you.

Mr. AKWEI: I think we probably should look at a series. This is such an important component. The human rights issues and the societal transformation that we are all committed to seeing has to come from inside those countries. So this is indeed the critical engine. So I would just say that the state of civil society in Uganda should be a topic and civil society in the DRC, you know. And there are groups here from all of those countries that we would be happy to link up to your staff so that you can –

Mr. McGOVERN: That would be helpful. Thank you.

Mr. DOOLEY: I would like to add Indonesia to that list, too.

I know there is some discussion of having a hearing on Bahrain in the near future. I strongly encourage you to do that, particularly if you can get some human rights defenders from Bahrain to come here. The problems of access both for them to come out and some of us to go in I know you are aware of, and I appreciate you helping, trying to get me in over the last year or so, sometimes successfully. So, yes, Indonesia may be looked at, but also if you can get some of the Bahraini human rights defenders here to speak firsthand I think that would be enormously beneficial, too.

Mr. McGOVERN: And I thank you for that.

I have enormous respect for all of you and the work that you do and the organizations you respect. Part of what the whole purpose of this Commission is to, in addition to getting some very interesting testimony, raising the issue of human rights to a new level and giving human rights defenders and activists around the world a forum to come and speak and let us know. I would like to think that we could figure out everything from reading the newspaper, but some of the most troubled spots in the world never get covered.

So it is vitally important for the work we are trying to do here and living up to the legacy of Tom Lantos to kind of aggressively go up there and try to reach the people who don't have a big audience and don't have a huge megaphone to be able to make known to world what is going on in their countries and how it is impacting their communities.

So I thank you very much for being here. Thanks for your patience. And this hearing is over.

[Whereupon, at 5:00 p.m., the subcommittee was adjourned.]

Written statement was submitted for the record by Lisa Davis of Freedom House.

## **Sustained US Global Leadership Needed to Defend Civil Society and Human Rights Defenders in an Era of Activism**

Thank you Chairman McGovern and Chairman Wolf and distinguished members of the Tom Lantos Human Rights Commission for holding this important hearing on the global situation of civil society and human rights defenders. A free and robust civil society sector and media are absolutely crucial components of any democracy. These groups act as watchdogs, have direct relationships with people on the ground, and provide knowledge to citizens that might otherwise be inaccessible. Many repressive countries recognize the important role these institutions play and have taken actions to stifle, repress, and outright interfere with civil society and the media.

Freedom House is one of the oldest human rights organizations in the United States and has been promoting democracy and fundamental freedoms worldwide for more than 70 years. In addition to our well-known publications and advocacy work, our programs actively support the work of frontline civic activists and human rights defenders through technical assistance, funding, solidarity, advocacy, and emergency support. A primary tenet of our philosophy is that democracy and freedom cannot exist without free and robust civic institutions.

As recognized in our 2012 *Freedom in the World* report, the political uprisings of the Arab Spring represent the most significant challenge to authoritarian rule since the collapse of Soviet communism. In a region that had seemed immune to democratic change, coalitions of activist reformers and ordinary citizens succeeded in removing dictators who had spent decades entrenching themselves in power. Citizens' demand for a voice and participation in the public affairs of their country is rarely more vivid than at times of mass protests. This made 2011 the year of activism around the world. According to CIVICUS's' recent *State of Civil Society Report*, some 88 countries experienced some form of mass protests in 2011. The internet and social media also served as a unique catalyst for civic action as both a mode of organizing street protests and as civic space in their own right.

The response by governments to civil society varied significantly. Protest and upheaval were followed by the beginnings of democratic institution building in Tunisia, Egypt, and Libya, and changes to the Constitution in Morocco. The overthrow of governments in some countries provoked determined and often violent responses in others, most notably Syria, but also Bahrain and Yemen. Elsewhere around the world, this pattern of protest and repression was repeated. In China, authorities responded to events in Cairo's Tahrir Square with a near-hysterical campaign of arrests, *incommunicado* detention, press censorship, and stepped-up control over the internet, aimed to quash potential pro-democracy protests. In December a number of dissident writers in China were sentenced to long terms in prison. In Russia, the state-controlled media first bombarded domestic audiences with predictions of chaos and instability as a consequence of Arab protests, suggesting similar consequences in Russia should protests start. When demonstrations began in Moscow and elsewhere, peaceful assembly was obstructed and leaders were detained. Following a street march calling for fair elections in Malaysia, the government responded with the enactment of a very restrictive public assembly

law. In Kazakhstan, police fired upon crowds in Zhanaozen while oil workers were on strike on December 16, 2011.

Whether the dramatic levels of activism worldwide since 2011 will result in a lasting backlash against civil society by autocratic governments will depend not only on the will of the local people, but also on the fortitude and momentum with which the international community defends civil society and human rights defenders against violent crackdowns and repressive legal reforms aimed at preventing true democratic transitions. A retreat by democratic governments from forthrightly defending the legitimate role and rights of human rights defenders and civil society would have devastating consequences. The international community must push back against autocrats' false assertions that civil society and those who would voice their opinion through protest are 'instigators' of political unrest and international support for civil society constitutes illegitimate interference in the internal affairs of their countries.

It is important to note that for the most part the events of the Arab Spring spread from unorganized, grassroots movements not associated with any particular political, religious, or civic group. Yet, because these organizations are often easy targets for repressive rulers, civil society organizations around the world have become scapegoats for repressive rulers facing unrest. It is incredibly important that the international community not accept these transparent attacks against civil society as legitimate, and work together to vocally and forcefully push back against repression. True democratic transitions in the Middle East and elsewhere will be impossible in the absence of free and unrestricted civil society participation.

Lessons for US global leadership on these issues should be drawn from previous eras in democratic expansion. Following the 'Colored Revolutions' of 2003-2005, authoritarian governments feared for their own survival and initiated a wave of proposed laws seeking to repress civil society and isolate it from the rest of the world. Some proposed laws were defeated; others were not. Authoritarian governments attributed the work of American civil society organizations, including Freedom House, and US support to civil society as a cause for these revolutions. Instead, international focus should have strongly asserted that it was the shortcomings of those failed governments to be accountable to their people and govern justly. In some cases, the USAID Missions acquiesced to authoritarian governments to redirect some of their democracy and governance funds to other areas or to abide by new laws restricting foreign funding without registration. Overall the global state of freedom of association and expression suffered a political regression over the last consecutive six years, as tracked by Freedom House's *Freedom in the World*. Reversing this six year trend should be a US priority.

### **Use of New and Old Styles of Repression**

When human rights defenders and civil society organizations speak out, they find themselves on the frontlines with those they seek to protect. Many risk life and profession when they investigate and report on human rights abuses. Freedom House's support programs aid defenders working in some of the most dangerous places in the world, such as Pakistan, Mexico, Afghanistan, the Democratic Republic of Congo, Zimbabwe, Somalia, Sudan, and Colombia, to help prevent serious attacks against civil society and human rights defenders by both state and non-state actors. Yet prevention can only go so far and human rights defenders are often rounded up, arrested, and detained, as in recent crackdowns in Belarus, Russia, China, Bahrain, Syria and Iran. Advocates of LGBTI rights are particularly vulnerable in societies that reject them.

Many of the acts of repression faced by human rights defenders and civil society are not extrajudicial, but rather the result of laws that are enacted with the express purpose of restricting civil society activities. According to research by the International Center for Not-for-Profit Law (ICNL), over 50 laws restricting civil society have been proposed or enacted around the world in the past five years alone. When promoting citizen participation in political life, civil society organizations more regularly face restrictive laws -- severely constraining their scope of activity or in some cases their organization's very ability to exist. The tight restrictions of new CSO legislation, as well as overreach of existing laws are being used in Ethiopia, Venezuela, Egypt, and Belarus to force organizations to change focus from critical human rights and civic work to defending themselves from legal investigations and prosecutions, the freezing of funds, or interruptions of activities and independent management of their organizations.

Of course one of the most well-known recent incidents of this type of repression is the case currently facing 43 NGO workers in Egypt, including 17 Americans, who face charges that could lead to prison and hard labor related to legitimate NGO activity. The brazenness of the Egyptian assault on civil society, and the fact that it targeted mostly American-based NGOs, demonstrates the extent to which certain governments feel they have the green light to target these groups.

Another disturbing trend is the revamping of laws on public assembly to further restrict the ability of citizens to meet or protest. In Malaysia, the Peaceful Public Assembly Act was signed into law in 2012 in the lead-up to elections, constraining legal locations where protests may take place, allowing police to impose conditions on protests, and refusing to allow persons under the age of 21 to organize a protest or those under the age of 15 or non-citizens to join a protest. Recently, Russian Prime Minister Putin publicly warned demonstrators, "go [and protest] without permission, and you will be hit in the head with batons." Mexico, Argentina, Colombia, Chile, Peru, and Venezuela are using criminal codes, such as terrorism laws, to prevent or crack down on social protest.

Authoritarian regimes have also become more technologically savvy in their repression. Well beyond the tapping of phone lines, some governments now possess the technology and dedicate enormous resources to infiltrating and monitoring websites and internet and mobile communications. These efforts allow governments to gather information to harass, expose, and even prosecute organizational members and associates on trumped up national security charges. Governments not only block websites, but also social media sites, including Facebook, YouTube videos, and other reporting and communication tools. No more dramatic example exists than that of the Egyptian government cutting off nearly all access to the internet, taking down specific Facebook sites, and shutting down cellphone service during the January 2011 Tahrir Square demonstrations.

### **Responses that Have Worked and Those That Have Failed**

Concerted pushback by a unified domestic civil society matched by pressure from the international and regional community can help defeat or forestall restrictive legislation. In the lead-up to Kazakhstan's bid for Chairmanship of the Organization of Security and Cooperation in Europe, the government drafted a number of proposed laws restricting the media, political party registration, and civil society organizations. Due to an incredible effort by the civil society sector inside

Kazakhstan, and concerted international attention and pressure, the restrictive CSO law was ultimately struck down by the Constitutional Court before its enactment. The insistence by Organization for Security and Cooperation in Europe (OSCE) member states and their citizens that Kazakhstan commit to OSCE principles, including respect for civil and political rights, as the OSCE Chair, placed the country, its laws and practices under heightened scrutiny, and forestalled a number of regressive laws.

In Venezuela, a restrictive draft law on international cooperation languished for several years in front of the National Assembly due to Venezuelan civil society efforts in the region; President Hugo Chavez only later passed a version of this law by executive decree, in a desperate attempt to hold on to power in the lead-up to elections this year.

Several years ago civil society in Zimbabwe defeated a restrictive draft CSO law by appealing to the African Commission on Human and Peoples Rights and asserting its contravention of regional and international norms. Most recently, sustained efforts by domestic civil society organizations and international attention to a repressive draft law in Cambodia caused the government to present several redrafts and, finally, to shelve the legislative reform attempt, at least for the time being.

In contrast, a strong resistance put forth by domestic civil society in Ethiopia matched by quiet diplomacy from the donor community failed to stop the passage of the Charities and Societies Act in 2009. This law prevents organizations from working on human rights and other critical issues if they receive more than 10% of their funds from foreign sources. It essentially eviscerated the work of the most prominent human rights, women's rights, and legal rights organizations which had been serving as watchdogs and advocates.

Algeria recently passed more restrictive legislation on civil society, virtually unnoticed by the international community. And holdovers from the past government of Egypt forced criminal prosecutions of staff of foreign NGOs, including Freedom House, and opened investigations over 400 domestic organizations to in an attempt to stem international support for its democratic transition. As we strongly feared might happen, the U.S. government's decision to waive restrictions on military aid, despite the recent crackdown, has only emboldened the campaign against civil society.

If authoritarian regimes are not confronted with sustained international attention and consequences for attacks against freedom of association and assembly in their countries, they will simply continue to repress the voices and activities of civil society.

Transnational human rights defender networks and initiatives have dramatically increased the solidarity, advocacy, capacity, and impact of defenders and civil society to address the global pushback and advance worldwide civic activism. Networks including CIVICUS, the East and Horn of Africa Human Rights Defender Project, the Central African and the Western African Human Rights Defender Networks, Forum-Asia, and the Regional Alliance for Freedom of Expression in Latin America, to name a few have heightened attention to and response for defenders at risk. They lead joint advocacy efforts at regional and international forums to address the regressive trends and defend their political space. These transnational networks have few donors and struggle to find resources to match the power of cooperation among authoritarian governments at the international forums.

Encouraging initiatives at the international level have begun to enhance the protection and recognition of the role and rights of human rights defenders and civil society. The bold work of the UN Special Rapporteur on the situation of Human Rights Defenders, including the advancement of human rights guidelines for states, and the recent creation of a Special Rapporteur on the rights to freedom of peaceful assembly and of association has served as watchdogs and expert voices to states on their bad behavior. The EU Guidelines on Human Rights Defenders have become a tool to engage the diplomatic support of European governments for at-risk human rights defenders.

### **Recommendations for Strong US Global Leadership**

The US should exercise its global leadership by mobilizing joint interventions and coordinated efforts by governments to advance existing international norms and head off restrictive trends. Additionally, the protection of human rights defenders, civil society, and the media should be at the core of U.S. bilateral relationships with certain governments. This will require the U.S. Government to:

- Pass US Guidelines for Human Rights Defenders and Civil Society Organizations, similar to those of the European Union, that go beyond the new initiative to create working groups within Embassies to more formally requiring US Embassies to intervene in human rights emergencies .
- Operationalize the urgent appeal system within the Lifeline Embattled Civil Society Organizations Fund to mobilize coordinated multilateral and bilateral responses to support civil society.
- Support the UN special mandates to increase their resources (staff, travel, and advanced tools for documentation and reporting).
- Provide dedicated and robust multi-year funding for bilateral aid to support civil society.
- Strategically address the opportunities and challenges in the Middle East and North Africa so that civil society and human rights defenders attain true enabling environments, access policy makers, and freely inform public opinion. The government of Tunisia should be commended for creating an enabling environment in which civil society organizations may register and work on the many critical elements of democratic reform, including transitional justice.
- Direct technical support to civil society and reform-minded political actors in Libya, Egypt, and other countries in the region to remove constraints on the ability of civil society to work across the region and with international partners.
- Elevate the issue of protection of civil society and a free media to the top of the relationship with Egypt and reevaluate the entire bilateral relationship, including the aid package, to ensure a successful transition to a civilian government.
- Worldwide, provide sustained funding and diplomatic support to transnational human rights networks that monitor and advocate for peaceful assembly laws, internet freedom, free expression, women's empowerment, and public participation in policy and law reform so that these universal norms are safeguarded and regional and global progress is made in this time of activism and of global pushback.

I wish to again thank the Commission for receiving Freedom House's written testimony and your invaluable support of civil society and human rights defenders worldwide.

Lisa Davis Freedom House's Senior Advisor for International Legal Affairs

# APPENDIX

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MATERIAL SUBMITTED FOR THE HEARING RECORD



**Tom Lantos Human Rights Commission (TLHRC)  
Hearing**

**Threats to Civil Society and Human Rights Defenders Worldwide**

**Thursday, May 17, 2012**

**3:00 PM– 5:00 PM**

**2237 Rayburn HOB**

Please join the Tom Lantos Human Rights Commission for a hearing on threats and restrictions faced by civil society and human rights defenders worldwide.

A dynamic and autonomous civil society – including non-governmental organizations (NGOs), activists, journalists, and human rights defenders – plays an important role in strengthening democracies and ensuring that human rights are protected. Recently enacted laws and pending legislation in some countries are severely limiting the ability of NGOs to operate freely, independently and effectively. On a more individual level, human rights defenders and their families are sometimes harassed, imprisoned, tortured, and even killed because of their work.

In addition to assessing these issues from a global perspective, this hearing will examine the impact of restrictive civil society legislation on human rights work in Ethiopia as well as the threats against human rights defenders and activists in Colombia.

**The following witnesses will testify:**

**Panel I**

- Donald Steinberg, Deputy Administrator, U.S. Agency for International Development
- Michael H. Posner, Assistant Secretary, Bureau of Democracy, Human Rights, and Labor, U.S. Department of State
- Tomicah Tillemann, Senior Advisor to the Secretary for Civil Society and Emerging Democracies, U.S. Department of State

**Panel II**

- Brian Dooley, Director, Human Rights Defenders Program, Human Rights First
- Adotei Akwei, Managing Director of Government Relations, Amnesty International
- Lisa Haugaard, Executive Director, Latin America Working Group

If you have any questions, please contact the Tom Lantos Human Rights Commission at 202-225-3599 or [tlhrc@mail.house.gov](mailto:tlhrc@mail.house.gov).

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